

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. CONTRACT ID CODE	PAGE 1 OF 4 PAGES
2. AMENDMENT/MODIFICATION NO. M201		3. EFFECTIVE DATE See Block 16C		4. REQUISITION/PURCHASE REQ. NO.	
5. PROJECT NO. (If applicable)					
6. ISSUED BY U.S. Department of Energy Richland Operations Office 825 Jadwin Avenue, MSIN A7-80 Richland, WA 99352		7. ADMINISTERED BY (If other than Item 6)		CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No. Street, county, State and ZIP Code) Fluor Hanford, Inc. 2420 Stevens Center PO Box 1000 Richland, WA 99352				<input checked="" type="checkbox"/> 9A. AMENDMENT OF SOLICITATION NO. <input type="checkbox"/> 9B. DATED (SEE ITEM 11) <input type="checkbox"/> 10A. MODIFICATION OF CONTRACT/ORDER NO. DE-AC06-96RL13200 <input type="checkbox"/> 10B. DATED (SEE ITEM 13) 08/06/96	
CODE		FACILITY CODE			

11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS

☐ The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers ☐ is extended, ☐ is not extended.

Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:

(a) By completing Items 8 and 15, and returning one (1) copy of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATA SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and data specified.

12. ACCOUNTING AND APPROPRIATION DATA (If required)

N/A \$0.00

13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.

<input checked="" type="checkbox"/>	A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.
<input type="checkbox"/>	B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b).
<input checked="" type="checkbox"/>	C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF: Mutual Agreement and Clause I.16, DEAR 970.5204-2, Laws Regulations, and DOE Directives (DEC 2000)
<input type="checkbox"/>	D. OTHER Specify type of modification and authority)

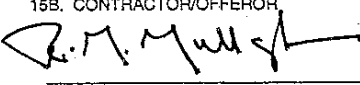
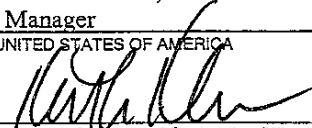
E. IMPORTANT: Contractor ☐ is not, ☒ is required to sign this document and return 2 copies to the issuing office.

14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)

This modification makes the following contract changes, which are further described in pages 2 and 3:

- incorporates replacement Section J, Appendix C;
- incorporates replacement clause I.20 to Section I, and updates Section I Table of Contents; and
- incorporates replacement section H including a new clause H.51 and revises clauses H.4, H.5, H.7, H.13, H.33, H.40, H.41, H.46, and updated Section H Table of Contents.

Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.

15A. NAME AND TITLE OF SIGNER (Type or print) Ronald G. Gallagher, President and Chief Executive Officer		16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print) Keith A. Klein, Manager	
15B. CONTRACTOR/OFFEROR  (Signature of person authorized to sign)	15C. DATE SIGNED 15 June 04	16B. UNITED STATES OF AMERICA BY  (Signature of Contracting Officer)	16C. DATE SIGNED 15 June 04

a. Replacement Section J, Appendix C, Requirement Sources and Implementing Documents, is incorporated. The changes incorporated into this updated Appendix are summarized as follows:

Deleted:

*DOE M 200.1-1 (except Chapter 2)	Telecommunications Security Manual
CRD N 450.4	Assignment of Responsibilities for Executive Order 13148,
	Greening the Government through Leadership in
	Environmental Management
CRD O 460.1A	Packaging and Transportation Safety
*DOE 1450.4	Consensual Listening-In To Or Recording Telephone/Radio
	Conversations
DOE O 5400.1, Chg 1	General Environmental Protection Program
*CRD M 200.1-1, Chapter 9, (Supp Rev 0)	Public Key Cryptography and Key Management
CRD O 551.1A Chg 1 (Supp Rev 0)	Official Foreign Travel
DOE/RL-91-31, Chg 4	Hanford Site Waste Minimization and Pollution Awareness
	Program Plan
02-ABD-0117	242 A Evaporator Authorization Agreement (AA) Annual
	Update
HNF-5915	PUREX Storage Tunnels Authorization Agreement
HNF-5916	224 T Authorization Agreement

Added:

CRD O 450.1	Environmental Protection Program
CRD O 460.1B	Packaging and Transportation Safety
*CRD O 200.1 (Supp Rev 1)	Information Management Program
CRD O 551.1B (Supp Rev 0)	Official Foreign Travel
	FFTF Authorization Agreement
HNF-19225	U Plant Authorization Agreement

Revised:

DOE/RL-2001-36, REV. 0	Hanford Sitewide Transportation Safety Document
DOE/RL-89-10	Hanford Federal Facility Agreement and Consent Order (Tri-
	Party Agreement) Revision 5
03-ABD-0022	The Waste Receiving and Processing (WRAP) Facility
	Authorization Agreement (AA)
02-ABD-0120	Approval of the Central Waste Complex (CWC) and Low
	Level Burial Ground (LLBG) Authorization Agreement
	Annual Updates
02-ABD-0139	Approval of the T Plant Authorization Agreement (AA)
	Annual Update

HNF-11187

Plutonium-Uranium Extraction Authorization Agreement

FWS 135108J274

Cooperative Agreement Between U.S. Fish and Wildlife Service, Hanford National Wildlife Refuge Complex And The Hanford Fire Department, Operated by DynCorp Tri-Cities Services, Inc.

Now reads--

DOE/RL-89-10

DOE/RL-2001-36, REV. 0-A
03-ABD-0022

03-ABD-0124

03-ABD-0065
HNF-11187, Rev 1

13700-2-J0595

Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) Revision 6
Hanford Sitewide Transportation Safety Document
Waste Receiving and Processing (WRAP) Facility
Authorization Agreement
Central Waste Complex (CWC) and Low Level Burial Ground (LLBG) Authorization Agreement
T Plant Authorization Agreement
Plutonium-Uranium Extraction Authorization Agreement (Includes PUREX Facility and PUREX Storage Tunnels)
Cooperative Agreement Between U.S. Fish and Wildlife Service, Hanford Reach National Monument/Saddle Mountain National Wildlife Refuge And Columbia National Wildlife Refuge and The DOE/RL Hanford Fire Department

Implementation of these changes is effective 30 days from the date of this modification with the exception of the deletions and additions of those items marked with an asterisk.

*The effective date of these changes is December 9, 2003, as directed in RL letter 04-PRO-0091.

- b. Clause I.20, DEAR 970.5204-86, Conditional Payment of Fee, Profit, and Other Incentives -- Facility Management Contracts (Month and Year TBD) is replaced by clause I.20, DEAR 970.5215-3, Conditional Payment of Fee, Profit, and Other Incentives -- Facility Management Contracts (JAN 2004) Alternate II (JAN 2004). Section I replacement pages I-26 through I-34, including page I-33a, are attached. Because of this change, Section I Tables of Contents was updated. This updated Table of Contents is also attached.
- c. A replacement Section H, attached, is added to the contract. Contract revisions included in this new Section H include:
 - Adding new clause H.51, Conditional Payment of Fee (CPOF) Site Specific Performance Criteria/Requirements, which supplements the new clause I.20;
 - Revising Clause H.4, Tri-Party Agreement, to add the phrase "timely DOE letters of direction" in lieu of "DOE direction" in the clause's last sentence;
 - Updating Clause H.5, Responsible Corporate Official, by changing the name of the person to contact;

Correcting Clause H.7, Guarantee of Performance, to change the title of the Agreement referenced in the body of the clause to read "Performance Guarantee Agreement";

Correcting Clause H.13, Optional Services, to reference Section C.6 of the Statement of Work instead of C.8;

Replacing Clause H.33, Performance Objectives, Measures, Expectations, and Fee Distribution, with a new version of this clause;

Correcting Clause H.40, Indirect Cost Allocations, FAR citation to a 48 CFR Citation.

Replacing Clause H.41, Authorization Agreements, with a revised version of this clause; and

Correcting Clause H.46, Occupational Health Records, by changing the clause title to "Occupational Medical Records"; and

Updating Section H, Table of Contents, as necessary to reflect the above changes.

PART III – LIST OF DOCUMENTS EXHIBITS AND OTHER ATTACHMENTS

SECTION J

APPENDIX C

REQUIREMENT SOURCES AND IMPLEMENTING DOCUMENTS

This appendix lists the Federal, State and local laws and regulations, DOE Directives, Site-specific manuals for functions and programs, and other agreements that contribute to the planning basis required for the work scope set forth in Section C. The list of laws and regulations is not comprehensive. Omission of any applicable law or regulation from this list does not affect the obligation of the Contractor to comply with such law or regulation.

The Contractor will use a "graded approach" to determine applicable sets of requirements for use in design, management and operation of the individual facilities, and execution of projects and programs, with due consideration for industry standards, elimination of redundant requirements, value added, and the level of risk associated with each facility or program.

New requirements or changes to the requirements identified below will be assessed for impact by the Contractor. The Contractor will as appropriate, request elimination, a waiver or submit a Baseline Change Request before incorporating and working to the new or changed requirement.

The requirements listed in this section will be applied to discrete work activities as the Contractor determines to be applicable. The Contractor will maintain an applicability matrix to manage requirements in direct support of cleanup and closure work. The matrix will be subject to RL assessment. Facility-specific agreements will establish the work specific applicability.

J.C.1 FEDERAL, STATE AND LOCAL LAWS AND REGULATIONS

J.C.1.1 Code of Federal Regulations (CFR)

Document Number	Title
10 CFR 71	Packaging And Transportation Of Radioactive Material
10 CFR 72	Licensing Requirements For The Independent Storage Of Spent Nuclear Fuel
10 CFR 73	Physical Protection Of Plants And Materials
10 CFR 436	Federal Energy Management And Planning Programs
10 CFR 707	Workplace Substance Abuse Programs At DOE Sites
10 CFR 708	DOE Contractor Employee Protection Program
10 CFR 710	Criteria And Procedures For Determining Eligibility For Access To Classified Matter Or Special Nuclear Material
10 CFR 820	Procedural Rules For DOE Nuclear Activities
10 CFR 830	Nuclear Safety Management
10 CFR 835	Occupational Radiation Protection
10 CFR 850	Chronic Beryllium Disease Prevention Program
10 CFR 1021	National Environmental Policy Act Implementing Procedures
29 CFR 1904	Recording And Reporting Occupational Injuries And Illnesses
29 CFR 1910	Occupational Safety And Health Standards
29 CFR 1926	Safety And Health Regulations For Construction
36 CFR 1220	Federal Records, General
36 CFR 1222	Creation And Maintenance Of Federal Records
36 CFR 1228	Disposition Of Federal Records
36 CFR 1230	Micrographic Records Management
36 CFR 1232	Audiovisual Records Management
36 CFR 1234	Electronic Records Management
36 CFR 1236	Management Of Vital Records
36 CFR 60	National Register Of Historic Places
40 CFR 61	National Emission Standards for Hazardous Air Pollutants
40 CFR 82	Protection Of Stratospheric Ozone
40 CFR 122	EPA Administered Permit Programs: The National Pollutant Discharge Elimination System
40 CFR 262	Standards Applicable To Generators Of Hazardous Waste
40 CFR 264	Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities
40 CFR 265	Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage, And Disposal Facilities
40 CFR 268	Land Disposal Restrictions
40 CFR 302	Designation, Reportable Quantities, and Notification
40 CFR 355	Emergency Planning And Notification
40 CFR 370	Hazardous Chemical Reporting: Community Right-To-Know
40 CFR 372	Toxic Chemical Release Reporting: Community Right-To-Know
40 CFR 761	Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution In Commerce, and use Prohibitions
40 CFR 763	Asbestos
40 CFR 60.150	Standards Of Performance For New Stationary Sources
41 CFR 101	Federal Property Management Regulations
41 CFR 102-192	Mail Management
48 CFR 970	DOE Management and Operating Contracts
49 CFR 40	Procedures For Transportation Workplace Drug Testing Programs
49 CFR 130	Oil Spill Prevention and Response Plans
49 CFR 107	Hazardous Materials Program Procedures
49 CFR 171	General Information, Regulations, and Definitions
49 CFR 172	Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information and Training Requirements
49 CFR 173	Shippers -- General Requirements for Shipments and Packagings

Document Number	Title
49 CFR 174	Carriage By Rail
49 CFR 177	Carriage by Public Highway.
49 CFR 178	Specifications For Packagings
49 CFR 179	Specifications For Tank Cars
49 CFR 180	Continuing Qualification And Maintenance Of Packagings
49 CFR 383	Commercial Driver's License Standards, Requirements and Penalties
49 CFR 387	Minimum Levels Of Financial Responsibility For Motor Carriers
49 CFR 390	Federal Motor Carrier Safety Regulations: General
49 CFR 391	Qualifications of Drivers
49 CFR 392	Driving of Commercial Motor Vehicles
49 CFR 393	Parts and Accessories Necessary for Safe Operations
49 CFR 395	Hours Of Service Of Drivers
49 CFR 396	Inspection, Repair and Maintenance
49 CFR 397	Transportation of Hazardous Materials, Driving and Parking Rules

J.C.1.2 U.S. Code (USC)

Document Number	Title
17 USC 506	Copyright Infringement and Remedies, Criminal Offences
18 USC 2319	Stolen Property, Criminal Infringement of a Copyright
33 USC 1251-1376	Clean Water Act
42 USC 13101	Findings & Policy
42 USC 13106	Source Reduction & Recycling Data Collection
42 USC 6962	Resource Conservation And Recovery Act (RCRA) Of 1976
42 USC 7401	Clean Air Act
43 USC 1701	Federal Land Policy And Management Act Of 1976
44 USC 3103	Transfer Of Records To Records Center
44 USC 3105	Safeguards
44 USC 3309	Preservations of Claims of Government Until Settled in General Accounting Office; Disposal Authorized Upon Written Approval of Comptroller General
44 USC 3312	Photographs or Microphotographs of Records Considered as Originals; Certified Reproductions Admissible in Evidence
44 USC 3506	Federal Agency Responsibilities
5 USC 552	Public Information; Agency Rules, Opinions, Orders, Records, and Proceedings
5 USC 552A	Records Maintained on Individuals

J.C.1.3 Executive Orders

Document Number	Title
Executive Order 12516	Final Guidance on Administrative Records for Selecting CERCLA Response Actions
Executive Order 13101	Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition
Executive Order 13123	Greening the Government Through Efficient Energy Management
Executive Order 13148	Greening the Government Through Leadership in Environmental Management
Executive Order 13221	Energy Efficient Standby Power Devices

J.C.1.4 Office of Management and Budget Circulars (OMB)

Document Number	Title
OMB Circular A-130	Management of Federal Information Resources

J.C.1.5 Washington Administrative Code (WAC)

Document Number	Title
WAC 46-48	Transportation Of Hazardous Materials
WAC 173-200	Water Quality Standards for Ground Waters of the State of Washington
WAC 173-216	State Waste Discharge Permit Program
WAC 173-218	Underground Injection Control Program
WAC 173-240	Submission of Plans and Reports for Construction of Wastewater Facilities
WAC 173-303	Dangerous Waste Regulations

Document Number	Title
WAC 173-304	Minimum Function Standards for Solid Waste Handling
WAC 173-340	Model Toxics Control Act -- Cleanup
WAC 173-360	Underground Storage Tank Regulations
WAC 173-400	General Regulations For Air Pollution Sources
WAC 173-401	Operating Permit Regulation
WAC 173-460	Controls for New Sources of Toxic Air Pollutants
WAC 173-480	Ambient Air Quality Standards and Emission Limits for Radionuclide
WAC 197-11	SEPA Rules
WAC 246-247	Radiation Protection -- Air Emissions
WAC 246-272	On-Site Sewage Systems
WAC 246-290	Public Water Supplies
WAC 246-291	Group B Public Water Systems
WAC 246-292	Water Works Operator Certification Regulations
WAC 296- 65	Asbestos Removal and Encapsulation
WAC 446-65	WAC Commercial Motor Vehicle Regulations
WAC 470-12	Transporting Rules

J.C.1.6 Permits

Document Number	Title
AOP 00-05-006	Hanford Site Air Operating Permit
WA-000374-3	National Pollutant Discharge Elimination System Permit for the 100 K Area Water Treatment Plant
WA-002591-7	National Pollutant Discharge Elimination System Permit for the 300 Area TEDF
WA780008967	Hanford Facility Resource Conservation and Recovery Act (RCRA) Permit

J.C.1.7 Local Laws and Regulations

Document Number	Title
BCAA REGULATION	County Air Pollution Control Authority

J.C.2 DOE DIRECTIVES AND AGREEMENTS

J.C.2.1 Directives, Regulations, Policies, and Standards

Document Number	Title
CRD M 140.1-1B	Interface with the Defense Nuclear Facilities Safety Board
CRD O 151.1A	Comprehensive Emergency Management System
CRD N 205.2	Foreign National Access to DOE Cyber Systems
CRD N 205.3	Password Generation, Protection, and Use
CRD O 221.1	Reporting Fraud, Waste, and Abuse to the Office of Inspector General
CRD O 221.2	Cooperation With the Office of the Inspector General
CRD O 225.1A	Accident Investigations
CRD O 231.1, Chg 2	Environment, Safety And Health Reporting
CRD O 241.1	Scientific and Technical Information Management
CRD O 350.1, Chg 1	Contractor Human Resources Management Program
CRD O 413.1A	Management Control Program
CRD O 414.1A	Quality Assurance
CRD O 433.1	Maintenance Management Program for DOE Nuclear Facilities
CRD O 450.1	Environmental Protection Program
CRD O 460.1B	Packaging and Transportation Safety
CRD O 460.2, Chg 1	Contractor Requirements Document Departmental Materials Transportation & Packaging Management
CRD O 461.1	Packaging and Transfer or Transportation of Materials of National Security
CRD M 470.1-1	Safeguards and Security Awareness Program
CRD M 471.2-1B	Classified Matter Protection and Control Manual (Only Chapter III, Paragraphs 1 and 2, and Chapter IV are applicable)
CRD M 471.2-2	Classified Information Systems Security Manual
CRD O 471.2A	Information Security Program
CRD O 472.1C	Personnel Security Activities
CRD O 473.1	Physical Protection Program
CRD O 473.2	Protective Force Program
CRD M 473.2-1A	Firearms Qualification Courses Manual
CRD M 474.1-2, Chg 2	Nuclear Materials Management and Safeguards System Reporting and Data Submission
CRD M 474.1-1	Manual for Control and Accountability for Nuclear Materials
CRD O 474.1A	Control and Accountability of Nuclear Materials
CRD M 475.1-1A	Identifying Classified Information
DOE 1270.2B	Safeguards Agreement with the International Atomic Energy Agency
DOE 1340.1B	Management of Public Communications Publications and Scientific, Technical and Engineering Publications
DOE 1350.1, Chg 1	Audiovisual and Exhibits Management
DOE 2110.1A, Chg 2	Pricing of Departmental Materials & Services
DOE 5400.5, Chg 1&2	Radiation Protection of the Public and the Environment
CRD 5480.20A	Personnel Selection, Qualifications, and Training Requirements of DOE Nuclear Facilities
DOE 5530.3, Chg 1	Radiological Assistance Program
DOE 5610.2, Chg 1	Control of Weapon Data

J.C.2.2 DOE-RL Supplemented Contractor Requirement Documents

Document Number	Title
CRD O 110.3 (5/8/00)	Conference Management
CRD N 142.1 (Supp Rev 0)	Unclassified Foreign Visits and Assignments
CRD O 200.1 (Supp Rev 1)	Information Management Program
CRD N 205.1 (Supp Rev 0)	Unclassified Cyber Security Program
CRD N 205.4 (Supp Rev 0)	Handling Cyber Security Alerts and Advisories and Reporting Cyber Security Incidents
CRD M 231.1-2 (Supp Rev 1)	Occurrence Reporting and Processing of Operations Information
CRD O 420.1A, (Supp Rev 0)	Facility Safety (Implement per RL letter 03-PRO-0502, dated 6/13/03)
CRD O 425.1B (Supp Rev 1)	Startup And Restart Of Nuclear Facilities
CRD O 430.1A (Supp Rev 2)	Life Cycle Asset Management
CRD O 435.1, Chg 1 (Supp Rev 0)	Radioactive Waste Management

Document Number	Title
CRD O 440.1A (Supp Rev 0)	Worker Protection Management of DOE Federal and Contractor Employees
CRD O 440.2A (Supp Rev 1)	Aviation Management and Safety
CRD O 442.1A (Supp Rev 1)	Department Of Energy Employee Concerns Program
CRD O 470.1, Chg 1 (Supp Rev 1)	Safeguards and Security Program Requirements
CRD O 470.2B (Supp Rev 2)	Independent Oversight and Performance Assurance Program (Implement per RL letter 03-PRO-0590, dated 7/18/03)
CRD O 471.1A (Supp Rev 0)	Identification and Protection of Unclassified Controlled Nuclear Information
CRD M 471.2-1C (Supp Rev 0)	Classified Matter Protection and Control Manual
CRD N 471.3 (Supp Rev 0)	Reporting Incidents of Security Concern
CRD M 473.1-1 (Supp Rev 0)	Physical Protection Program Manual
CRD M 473.2-2, Chg 1 (Supp Rev 0)	Protective Force Program Manual
CRD N 473.8 (Supp Rev 1)	Security Conditions
CRD O 481.1B (Supp Rev 0)	Work for Others (Non Department of Energy Funded Work)
CRD O 551.1B (Supp Rev 0)	Official Foreign Travel
CRD O 5480.19 Chg 2 (Supp Rev 1)	Conduct of Operations Requirements for DOE Facilities

J.C.2.3 DOE-RL Implementing Documents

Document Number	Title
DOE-0223	RL Emergency Implementing Procedures
DOE/RL-2001-0036, REV. 0 - A	Hanford Sitewide Transportation Safety Document
DOE/RL-2002-12	Hanford Radiological Health and Safety Document
DOE/RL-89-10	Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement)
DOE/RL-94-02	Hanford Emergency Management Plan
DOE/RL-96-68, Rev 2	Hanford Analytical Services Quality Assurance Requirements Document
DOE/RW-0333P, Rev. 8	Office of Civilian Radioactive Waste Management - Quality Assurance Requirements and Description for the Civilian Radioactive Waste Management Program.

J.C.2.4 DOE-RL Directives (RLID)

Document Number	Title
RLID 471.2B	Information Security Program
RLID 5633.3	Control and Accountability of Nuclear Material at RL

J.C.2.5 Record of Decisions (ROD)

Document Number	Title
(none)	200-ZP-1 Interim Action Declaration of the ROD
53 FR 12449, April 14, 1988, No. 72, pp. 12449	Disposal of Hanford Defense High-Level, Transuranic, and Tank Waste Environmental Impact Statement, Hanford Site, Richland, Washington: Record of Decision (ROD)
61 FR 10736, March 15, 1996, Doc. 96-6291	Record of Decision: Management of Spent Nuclear Fuel From the K Basins
61 FR 36352, July 10, 1996, Doc. 96-17561	Record of Decision for the Plutonium Finishing Plant Stabilization
61 FR 41956, August 9, 1996, Doc. 96-20237	Record of Decision for the Disposal of Decommissioned, Defueled Cruiser, Ohio Class, and Los Angeles Class Naval Reactor Plants
62 FR 3014, January 21, 1997, Doc. 97-1355	Record of Decision for the Storage and Disposition of Weapons-Usable Fissile Materials Final Programmatic Environmental Impact Statement
63 FR 3623, January 23, 1998, Doc. 98-1653	Record of Decision for the Waste Isolation Pilot Plant Disposal Phase
63 FR 3629, January 23, 1998, Doc. 98-1654	Record of Decision for the Waste Management Program: Treatment and Storage of Transuranic Waste
63 FR 41810, August 5, 1998, Doc. 98-20895	Record of Decision for the Waste Management Program: Treatment of Non-wastewater Hazardous Was
63 FR 43386, August 13, 1998, Doc. 98-21744	Amended Record of Decision for Storage and Disposition of Weapons-Usable Fissile Materials
64 FR 46661, August 26, 1999, Doc. 95-29313	Record of Decision; Safe Interim Storage of Hanford Tank Wastes
64 FR 46661, August 26, 1999, Doc. 99-22149	Record of Decision for the DOE Waste Management Program: Storage of High-Level Radioactive Waste
64 FR 61615, November 12, 1999, Doc. 99-29325	Record of Decision: Hanford Comprehensive Land-Use Plan Environmental Impact Statement (HCP EIS)
65 FR 10061, February 25, 2000, Doc. 00-4439	Record of Decision for the Waste Management Program: Treatment and Disposal of Low-Level Waste and Mixed Low-Level Waste; Amendment of the Record of Decision for the Nevada Test Site
DOE/EA-0987	Disposition of Alkali Metal Test Loops, Hanford Site, Richland, Washington

Document Number	Title
DOE/EA-0993	Environmental Assessment, Shutdown of the Fast Flux Test Facility, Hanford Site, Richland, Washington
DOE/EA-1185	Management of Hanford Site Non-Defense Production Reactor Spent Fuel
DOE/EA-1319	Disposition of Surplus Hanford Site Uranium, Hanford Site, Richland Washington
DOE/EIS-0222-F	Comprehensive Land Use Plan EIS
DOE/EIS-0244-FS-1	Supplement Analyses
DOE/EIS-0244-FS-2	Supplement Analyses
DOE/EIS-0244-FS-3	Supplement Analyses
DOE/EIS-0244-FS-4	Supplement Analyses
DOE/EIS-0244-FS-5	Supplement Analyses
DOE/EIS-0244-FS-6	Supplement Analyses
DOE/EIS-0244-FS-7	Supplement Analyses
DOE/EIS-0244-FS-8	Supplement Analyses
DOE-EIS-0244-FS-9	Supplement Analyses
DOE/EIS-0244F	Record of Decision for Plutonium Finishing Plant Stabilization Final EIS, June 1996
DOE/EIS-0245-SA1	Supplemental Analysis for EIS-0245F
DOE/EIS-0283	Record of Decision for the Surplus Plutonium Disposition Final EIS, January 2000
DOE/EIS-0310	Final Programmatic Environmental Impact Statement for Accomplishing Expanded Civilian Nuclear Energy Research and Development and Isotope Production Missions in the United States Including the Role of the Fast Flux Test Facility
(none)	Interim Action ROD for the 200-UP-1 Operable Unit
(none)	Interim Action ROD for the DOE Hanford 100-HR-3 and 100-KR-4 Operable Units
(none)	Interim Action ROD for the DOE Hanford 100-NR-1 and 100-NR-2 Operable Units
(none)	Interim Action ROD for the DOE Hanford 300-FF-2 Operable Unit, April 2001

J.C.2.6 Authorization Agreements

Document Number	Title
HNF-10611	WESF Authorization Agreement
HNF-9830	Plutonium Finishing Plant Authorization Agreement
03-ABD-0022	Waste Receiving and Processing (WRAP) Facility Authorization Agreement
03-ABD-0124	Central Waste Complex (CWC) and Low Level Burial Ground (LLBG) Authorization Agreement
03-ABD-0065	T Plant Authorization Agreement
HNF-11186	B Plant Authorization Agreement
HNF-11187, Rev 1	Plutonium-Uranium Extraction Authorization Agreement (Includes PUREX Facility and PUREX Storage Tunnels)
HNF-5356	Spent Nuclear Fuel Project Authorization Agreement
HNF-5810	324 Building Deactivation Project Authorization Agreement
	FETF Authorization Agreement
	U Plant Authorization Agreement
HNF-19225	

J.C.2.7 Acceptance Criteria

Document Number	Title
BHI-00139	Environmental Restoration Disposal Facility Waste Acceptance Criteria
CAO-94-1012	Quality Assurance Program Document (QAPD)
DOE-STD-3013	Stabilization, Packaging and Storage of Plutonium - Bearing Materials
DOE/RW-0351 Rev 3	Waste Acceptance System Requirements Document, E000000000-00811-1708-0001 REV 03
DOE/WIPP-02-3122 Rev. 0.1	Contact-Handled Transuranic Waste Acceptance Criteria for the Waste Isolation Pilot Plant
HNF-2599, Rev. 6	Hanford Site Transuranic Waste Characterization Quality Assurance Project Plan
G-ESR-G-00035, Rev. 1, dated July 26, 2000	Savannah River Site Stabilization and Packaging Requirements for Plutonium Bearing Materials in Storage
HNF-2600, Rev. 7	Hanford Site Transuranic Waste Certification Plan
HNF-3172	Hanford Site Liquid Waste Acceptance Criteria
HNF-EP-0063	Hanford Solid Waste Acceptance Criteria
HNF-SD-SNF-OCD-001, Rev. 6	Spent Nuclear Fuel Project Product Specification
LA-UR-00-3245	Integrated Surveillance Program in Support of Long-Term Storage of Pu-Bearing Materials
SNF-4894	Spent Nuclear Fuel Project Acceptance Criteria for LWR Spent Fuel Storage System
SNF-7199	Shippingport PWR Core 2 Blanket Fuel Assemblies Acceptance Criteria
WHC-SD-SNF-TI-001	Hanford Spent Fuel Inventory Baseline

J.C.2.8 Mutual Aid Agreements

Document Number	Title
(none)	The Memorandum Of Understanding Between The U.S. Fish And Wildlife Service (FWS) And The U.S. Department Of Energy, Richland Operations Office, (DOE-RL) For The Operation Of The Fitzner-Eberhardt Arid Lands Ecology Reserve At The Hanford Site
(none)	Memorandum of Understanding for Mutual Law Enforcement Assistance
0103719/01-SES-293	Air Tanker Support
(none)	Tri-County Mutual Aid Agreement
13700-2-J0595	Cooperative Agreement Between U.S. Fish And Wildlife Service, Hanford Reach National Monument/Saddle Mountain National Wildlife Refuge And Columbia National Wildlife Refuge And The DOE/RL Hanford Fire Department.
(none)	Letter Of Agreement Between U.S. Department Of Energy, Richland Operations Office (RL) And National Weather Service (NWS) For Possible Response To An Emergency At The Hanford Site
(none)	Memorandum Of Understanding Between Energy Northwest And U.S. Department Of Energy, Richland Operations Office For Emergency Preparedness and Response
(none)	Memorandum Of Understanding Between Siemens Power Corporation And U.S. Department Of Energy, Richland Operations Office
(none)	Memorandum Of Understanding (MOU) Between The U.S. Department Of Energy, Richland Operations Office (RL) And Kadlec Medical Center (KMC)
(none)	Memorandum Of Understanding Between The United States Department Of Energy-Richland Operations Office (RL) And Kennewick General Hospital
(none)	Memorandum Of Understanding Between The United States Department Of Energy-Richland Operations Office (RL) And Our Lady of Lourdes Medical Center
(none)	Memorandum Of Understanding Between U.S. Department Of Energy, Richland Operations Office And Benton County Emergency Services For Emergency Preparedness
(none)	Memorandum Of Understanding Between U.S. Department Of Energy, Richland Operations Office And Franklin County For Emergency Preparedness
(none)	Memorandum Of Understanding Between U.S. Department Of Energy Richland Operations Office And Grant County For Emergency Preparedness
(none)	Memorandum Of Understanding Between U.S. Department Of Energy, Richland Operations Office, And Hanford Environmental Health Foundation And Energy Northwest For Treatment Of Radiologically Contaminated Persons
(none)	Memorandum Of Understanding Between U.S. Department Of Energy, Richland Operations Office And Hanford Environmental Health Foundation And Allied Technology Group, Inc. For The Use Of The Emergency Decontamination Facility
(none)	Memorandum Of Understanding Between U.S. Department Of Energy, Richland Operations Office And Hanford Environmental Health Foundation And Siemens Power Corporation For The Use Of The Emergency Decontamination Facility December 1999
(none)	Memorandum Of Understanding Between U.S. Department Of Energy, Richland Operations Office And The State Of Oregon For Emergency Preparedness
(none)	Memorandum Of Understanding Between U.S. Department Of Energy, Richland Operations Office And Washington State For Emergency Preparedness
(none)	Memorandum Of Understanding Between The Washington State Department Of Agriculture, Adams County Noxious Weed Control Board, Benton County Noxious Weed Control Board, Franklin County Noxious Weed Control Board, Grant County Noxious Weed Control Board and United States Department Of Energy Richland Field Office For Management Of Noxious Weed And Undesirable Plants.

PART II - CONTRACT CLAUSES

SECTION I CONTRACT CLAUSES

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- (a) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.
- (b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.
- (c) In each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4, when entered into, the Contractor shall insert either--
 - (1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of cost or pricing data for the subcontract; or
 - (2) The substance of the clause at FAR 52.215-13, Subcontractor Cost or Pricing Data--Modifications.

**I.20 970.5215-3 CONDITIONAL PAYMENT OF FEE, PROFIT, AND
OTHER INCENTIVES -- FACILITY MANAGEMENT CONTRACTS
(JAN 2004) ALTERNATE II (JAN 2004)**

- (a) *General.*
 - (1) The payment of earned fee, fixed fee, profit, or share of cost savings under this contract is dependent upon:
 - (i) The contractor's or contractor employees' compliance with the terms and conditions of this contract relating to environment, safety and health (ES&H), which includes worker safety and health (WS&H), including performance under an approved Integrated Safety Management System (ISMS); and
 - (ii) The contractor's or contractor employees' compliance with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information.

- (2) The ES&H performance requirements of this contract are set forth in its ES&H terms and conditions, including the DOE approved contractor ISMS or similar document. Financial incentives for timely mission accomplishment or cost effectiveness shall never compromise or impede full and effective implementation of the ISMS and full ES&H compliance.
 - (3) The performance requirements of this contract relating to the safeguarding of Restricted Data and other classified information are set forth in the clauses of this contract entitled, "Security" and "Laws, Regulations, and DOE Directives," as well as in other terms and conditions.
 - (4) If the contractor does not meet the performance requirements of this contract relating to ES&H or to the safeguarding of Restricted Data and other classified information during any performance evaluation period established under the contract pursuant to the clause of this contract entitled, "Total Available Fee: Base Fee Amount and Performance Fee Amount," otherwise earned fee, fixed fee, profit or share of cost savings may be unilaterally reduced by the contracting officer.
- (b) *Reduction Amount.*
- (1) The amount of earned fee, fixed fee, profit, or share of cost savings that may be unilaterally reduced will be determined by the severity of the performance failure pursuant to the degrees specified in paragraphs (c) and (d) of this clause.
 - (2) If a reduction of earned fee, fixed fee, profit, or share of cost savings is warranted, unless mitigating factors apply, such reduction shall not be less than 26% nor greater than 100% of the amount of earned fee, fixed fee, profit, or the contractor's share of cost savings for a first degree performance failure, not less than 11% nor greater than 25% for a second degree performance failure, and up to 10% for a third degree performance failure.
 - (3) In determining the amount of the reduction and the applicability of mitigating factors, the contracting officer must consider the contractor's overall performance in meeting the ES&H or security requirements of the contract. Such consideration must include performance against any site specific performance criteria/requirements that provide additional definition, guidance for the amount of reduction, or guidance for the applicability of mitigating factors. In all cases, the contracting officer must consider mitigating factors that may warrant a reduction below the applicable range (see 48 CFR 970.1504-1-2). The mitigating factors

include, but are not limited to, the following ((v), (vi), (vii) and (viii) apply to ES&H only).

- (i) Degree of control the contractor had over the event or incident.
 - (ii) Efforts the contractor had made to anticipate and mitigate the possibility of the event in advance.
 - (iii) Contractor self-identification and response to the event to mitigate impacts and recurrence.
 - (iv) General status (trend and absolute performance) of: ES&H and compliance in related areas; or of safeguarding Restricted Data and other classified information and compliance in related areas.
 - (v) Contractor demonstration to the contracting officer's satisfaction that the principles of industrial ES&H standards are routinely practiced (e.g., Voluntary Protection Program, ISO 14000).
 - (vi) Event caused by "Good Samaritan" act by the contractor (e.g., offsite emergency response).
 - (vii) Contractor demonstration that a performance measurement system is routinely used to improve and maintain ES&H performance (including effective resource allocation) and to support DOE corporate decision-making (e.g., policy, ES&H programs).
 - (viii) Contractor demonstration that an Operating Experience and Feedback Program is functioning that demonstrably affects continuous improvement in ES&H by use of lessons-learned and best practices inter- and intra-DOE sites.
- (4) (i) The amount of fee, fixed fee, profit, or share of cost savings that is otherwise earned by a contractor during an evaluation period may be reduced in accordance with this clause if it is determined that a performance failure warranting a reduction under this clause occurs within the evaluation period.
- (ii) The amount of reduction under this clause, in combination with any reduction made under any other clause in the contract, shall not exceed the amount of fee, fixed fee, profit, or the contractor's share of cost savings that is otherwise earned during the evaluation period.

- (iii) For the purposes of this clause, earned fee, fixed fee, profit, or share of cost savings for the evaluation period shall mean the amount determined by the contracting officer or fee determination official as otherwise payable based on the contractor's performance during the evaluation period. Where the contract provides for financial incentives that extend beyond a single evaluation period, this amount shall also include: any provisional amounts determined otherwise payable in the evaluation period; and, if provisional payments are not provided for, the allocable amount of any incentive determined otherwise payable at the conclusion of a subsequent evaluation period. The allocable amount shall be the total amount of the earned incentive divided by the number of evaluation periods over which it was earned.
- (iv) The Government will effect the reduction as soon as practicable after the end of the evaluation period in which the performance failure occurs. If the Government is not aware of the failure, it will effect the reduction as soon as practical after becoming aware. For any portion of the reduction requiring an allocation the Government will effect the reduction at the end of the evaluation period in which it determines the total amount earned under the incentive. If at any time a reduction causes the sum of the payments the contractor has received for fee, fixed fee, profit, or share of cost savings to exceed the sum of fee, fixed fee, profit, or share of cost savings the contractor has earned (provisionally or otherwise), the contractor shall immediately return the excess to the Government. (What the contractor "has earned" reflects any reduction made under this or any other clause of the contract.)
- (v) At the end of the contract:
 - (A) The Government will pay the contractor the amount by which the sum of fee, fixed fee, profit, or share of cost savings the contractor has earned exceeds the sum of the payments the contractor has received; or
 - (B) The contractor shall return to the Government the amount by which the sum of the payments the contractor has received exceeds the sum of fee, fixed fee, profit, or share of cost savings the contractor has earned. (What the contractor "has earned" reflects any reduction made under this or any other clause of the contract.)

- (c) *Environment, Safety and Health (ES&H)*. Performance failures occur if the contractor does not comply with the contract's ES&H terms and conditions, including the DOE approved contractor ISMS. The degrees of performance failure under which reductions of earned or fixed fee, profit, or share of cost savings will be determined are:
- (1) First Degree: Performance failures that are most adverse to ES&H. Failure to develop and obtain required DOE approval of an ISMS is considered first degree. The Government will perform necessary review of the ISMS in a timely manner and will not unreasonably withhold approval of the contractor's ISMS. The following performance failures or performance failures of similar import will be considered first degree.
 - (i) Type A accident (defined in DOE Order 225.1A).
 - (ii) Two Second Degree performance failures during an evaluation period.
 - (2) Second Degree: Performance failures that are significantly adverse to ES&H. They include failures to comply with an approved ISMS that result in an actual injury, exposure, or exceedence that occurred or nearly occurred but had minor practical long-term health consequences. They also include breakdowns of the Safety Management System. The following performance failures or performance failures of similar import will be considered second degree:
 - (i) Type B accident (defined in DOE Order 225.1A).
 - (ii) Non-compliance with an approved ISMS that results in a near miss of a Type A or B accident. A near miss is a situation in which an inappropriate action occurs, or a necessary action is omitted, but does not result in an adverse effect.
 - (iii) Failure to mitigate or notify DOE of an imminent danger situation after discovery, where such notification is a requirement of the contract.
 - (3) Third Degree: Performance failures that reflect a lack of focus on improving ES&H. They include failures to comply with an approved ISMS that result in potential breakdown of the System. The following performance failures or performance failures of similar import will be considered third degree:

- (i) Failure to implement effective corrective actions to address deficiencies/non-compliances documented through: external (e.g., Federal) oversight and/or reported per DOE Order 232.1A requirements; or internal oversight of DOE Order 440.1A requirements.
 - (ii) Multiple similar non-compliances identified by external (e.g., Federal) oversight that in aggregate indicate a significant programmatic breakdown.
 - (iii) Non-compliances that either have, or may have, significant negative impacts to the worker, the public, or the environment or that indicate a significant programmatic breakdown.
 - (iv) Failure to notify DOE upon discovery of events or conditions where notification is required by the terms and conditions of the contract.
- (d) *Safeguarding Restricted Data and Other Classified Information.* Performance failures occur if the contractor does not comply with the terms and conditions of this contract relating to the safeguarding of Restricted Data and other classified information. The degrees of performance failure under which reductions of fee, profit, or share of cost savings will be determined are as follows:
- (1) First Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered first degree:
 - (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating a risk of, loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, any classification level of information in a Special Access Program (SAP), information identified as sensitive compartmented information (SCI), or high risk nuclear weapons-related data.
 - (ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP,

information identified as SCI, or high risk nuclear weapons-related data.

- (iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data, or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.
 - (iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Top Secret Restricted Data or other information classified as Top Secret, any classification level of information in a SAP, information identified as SCI, or high risk nuclear weapons-related data.
- (2) Second Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:
- (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Secret Restricted Data or other information classified as Secret.
 - (ii) Contractor actions that result in a breakdown of the safeguards and security management system that can reasonably be expected to result in the loss, compromise, or unauthorized disclosure of Secret Restricted Data, or other information classified as Secret.
 - (iii) Failure to promptly report the loss, compromise, or unauthorized disclosure of Restricted Data or other classified information regardless of classification (except for information covered by paragraph (d)(1)(iii) of this clause).
 - (iv) Failure to timely implement corrective actions stemming from the loss, compromise, or unauthorized disclosure of Secret Restricted Data or other classified information classified as Secret.
- (3) Third Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue

risk to the common defense and security. In addition, this category includes performance failures that result from a lack of contractor management and/or employee attention to the proper safeguarding of Restricted Data and other classified information. These performance failures may be indicators of future, more severe performance failures and/or conditions, and if identified and corrected early would prevent serious incidents. The following are examples of performance failures or performance failures of similar import that will be considered third degree:

- (i) Non-compliance with applicable laws, regulations, and DOE directives actually resulting in, or creating risk of, loss, compromise, or unauthorized disclosure of Restricted Data or other information classified as Confidential.
- (ii) Failure to promptly report alleged or suspected violations of laws, regulations, or directives pertaining to the safeguarding of Restricted Data or other classified information.
- (iii) Failure to identify or timely execute corrective actions to mitigate or eliminate identified vulnerabilities and reduce residual risk relating to the protection of Restricted Data or other classified information in accordance with the contractor's Safeguards and Security Plan or other security plan, as applicable.

- (iv) Contractor actions that result in performance failures which unto themselves pose minor risk, but when viewed in the aggregate indicate degradation in the integrity of the contractor's safeguards and security management system relating to the protection of Restricted Data and other classified information.

(e) *Minimum requirements for specified level of performance.*

- (1) At a minimum the contractor must perform the following:

- (i) The requirements with specific incentives which do not require the achievement of cost efficiencies in order to be performed at the level of performance set forth in the Statement of Work, Work Authorization Directive, or similar document unless an otherwise minimum level of performance has been established in the specific incentive;

- (ii) All of the performance requirements directly related to requirements specifically incentivized which do not require the achievement of cost efficiencies in order to be performed at a level of performance such that the overall performance of these related requirements is at an acceptable level; and

- (iii) All other requirements at a level of performance such that the total performance of the contract is not jeopardized.

- (2) The evaluation of the Contractor's achievement of the level of performance shall be unilaterally determined by the Government. To the extent that the Contractor fails to achieve the minimum performance levels specified in the Statement of Work, Work Authorization Directive, or similar document, during the performance evaluation period, the DOE Operations/Field Office Manager, or designee, may reduce any otherwise earned fee, fixed fee, profit, or shared net savings for the performance evaluation period. Such reduction shall not result in the total of earned fee, fixed fee, profit, or shared net savings being less than 25% of the total available fee amount. Such 25% shall include base fee, if any.

(f) *Minimum requirements for cost performance.*

- (1) Requirements incentivized by other than cost incentives must be performed within their specified cost constraint and must not adversely impact the costs of performing unrelated activities.
- (2) The performance of requirements with a specific cost incentive must not adversely impact the costs of performing unrelated requirements.
- (3) The contractor's performance within the stipulated cost performance levels for the performance evaluation period shall be determined by the Government. To the extent the contractor fails to achieve the stipulated cost performance levels, the DOE Operations/Field Office Manager, or designee, may reduce in whole or in part any otherwise earned fee, fixed fee, profit, or shared net savings for the performance evaluation period. Such reduction shall not result in the total of earned fee, fixed fee, profit or shared net savings being less than 25% of the total available fee amount. Such 25% shall include base fee, if any.

I.21 FAR 52.215-14 INTEGRITY OF UNIT PRICES (OCT 1997)

- (a) Any proposal submitted for the negotiation of prices for items of supplies shall distribute costs within contracts on a basis that ensures that unit prices are in proportion to the items' base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost. Nothing in this paragraph requires submission of cost or pricing data not otherwise required by law or regulation.
- (b) When requested by the Contracting Officer, the Offeror/Contractor shall also identify those supplies that it will not manufacture or to which it will not contribute significant value.
- (c) The Contractor shall insert the substance of this clause, less paragraph (b), in all subcontracts for other than: acquisitions at or below the simplified acquisition

PART I - THE SCHEDULE

SECTION H SPECIAL CONTRACT REQUIREMENTS FLUOR HANFORD, INC.

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H.1 SEPARATE CORPORATE ENTITY

The work performed by the Contractor under this contract shall be conducted by a separate corporate entity from its parent company. The separate corporate entity must be set up solely to perform this contract and shall be totally responsible for all contract activities.

H.2 RESERVED

H.3 USE OF CORPORATE AFFILIATES

- A. The Contractor and the Contractor's subcontractors may obtain direct support from their affiliates to meet technical and staffing requirements consistent with Make-or-Buy evaluation. Prior to ordering any support from an affiliate, the Contractor shall document the basis for selecting the affiliate and how the evaluation process was consistent with the requirements of the Clauses entitled "Make-or-Buy Plan and/or Program/Subcontracts Consent and Contract Clause Flow Down Requirements." For purposes related to the Make-or-Buy decision, non-competitive awards to affiliates are considered a "make" and competitive awards to affiliates, a "buy." In addition, the Contractor or subcontractor will ensure that prior to award, each transaction with an affiliate will be evaluated for potential conflicts of interest and adjudicated in accordance with Clause, "Organizational Conflicts of Interest."
- B. Materials, supplies, equipment and services obtained from a Contractor or subcontractor affiliate on a non-competitive basis will be at cost without additional fee or profit, or cost of money. Fee or profit paid to an affiliate through a non-competitive agreement will be deducted from the Contractor's negotiated fees earned for the Fiscal Year.
- C. For competitive procurements, Subcontracts with affiliates require advance approval in writing from the Contracting Officer. Such subcontracts must be:
 - (1) Legally enforceable;
 - (2) Use the same terms and conditions that would apply to a third party supplier; and,
 - (3) Result in an agreement based on price competition as defined by FAR 15.403-1(c), and for cost-type awards be supported by a cost realism analysis.
- D. Contractor affiliates providing materials, supplies, equipment, and services shall perform such work in accordance with the applicable terms and conditions of this Contract.

H.4 TRI-PARTY AGREEMENT

The DOE, the U.S. Environmental Protection Agency Region 10 (EPA), and the Washington State Department of Ecology (Ecology) have entered into the Hanford Federal Facility

Agreement and Consent Order, referred to as the Tri-Party Agreement (TPA) to ensure compliance with the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA). The TPA sets forth certain requirements and milestones for cleanup activities at the Hanford Site. The Contractor agrees to plan and perform the work under this contract in accordance with timely DOE letters of direction concerning implementation of the TPA and achievement of current and future milestones in the TPA.

H.5 RESPONSIBLE CORPORATE OFFICIAL

The Government may contact, as necessary, the single responsible corporate official identified below, who is at a level above the Contractor President and Chief Executive Officer who is accountable for the performance of the Contractor. Should the responsible corporate official change during the period of the contract, the Contractor shall promptly notify the Government of the change in the individual to contact.

Name: Gary Coxon

Position: President, DOE Programs

Company: Fluor Government Group

H.6 THIRD PARTIES

Nothing contained in this Contract or its amendments shall be construed to grant, vest, or create any rights in any person not a party to this Contract. This provision is not intended to limit or impair the rights which any person may have under applicable Federal Statutes.

H.7 GUARANTEE OF PERFORMANCE

AGREEMENT

The Contractor or the Contractor's parent organization(s) has (have) provided a Guarantee of Performance Guarantee Agreement in a manner and form acceptable to the Contracting Officer assuring the performance, duties, and responsibilities of the Contractor, including repayment of unearned provisional fee, will be satisfactorily fulfilled. The Guarantee of Performance Guarantee Agreement dated December 21, 2000 is incorporated herein by reference and made part of this Contract.

H.8 ENVIRONMENTAL RESPONSIBILITY

A. General

Contractor is required to comply with all environmental laws, regulations, and procedures applicable to the work being performed under this Contract. This includes, but is not limited to, compliance with applicable Federal, State and local laws and regulations,

interagency agreements such as the Hanford Federal Facility Agreement and Consent Decree [aka Tri-Party Agreement (TPA)], consent orders, consent decrees, and settlement agreements between DOE and Federal and State regulatory agencies.

B. Environmental Permits

This clause addresses the following permit scenarios:

- (1) Where the Contractor is the sole permittee; (2) where the Contractor and DOE are joint permittees; (3) where multiple Contractors are permittees.
- (2) Contractor as Sole Permittee. To the extent permitted by law and subject to other applicable provisions of the contract that impose responsibilities on DOE, and provisions of law that impose responsibilities on DOE or third parties, the Contractor shall be responsible for obtaining in its own name, shall sign, and shall be solely responsible for compliance with all permits, authorizations and approvals from Federal, State, and local regulatory agencies which are necessary for the performance of the work required of the Contractor under this Contract. Under this permit scenario, that Contractor shall make no commitments or set precedents that are detrimental to DOE or other Contractors. Contractor shall coordinate its permitting activities with DOE, and with other Hanford Site Contractors which may be affected by the permit or precedent established therein, prior to taking the permit action.
- (3) Contractor and DOE as Joint Permittees. Where appropriate, required by law, or required by applicable regulatory agencies, DOE shall sign permits as owner or as owner/operator with Contractor as operator or co-operator, respectively. DOE will co-sign Hazardous Waste permit applications as owner/operator where required by applicable law. In this scenario, the Contractor must coordinate its actions with DOE. DOE is responsible for timely notification to the Contractor of any issues or changes in the regulatory environment that impact or may impact Contractor implementation of any permit requirement. The Contractor is responsible for timely notification to DOE of any issues or changes in the regulatory environment that impact or may impact Contractor implementation of any permit requirement. Notification need not be in writing.
- (4) Multiple Contractors as Permittees. Where appropriate, in situations where multiple Contractors are operators or co-operators of operations requiring environmental permits, DOE shall sign such permits as owner or co-operator and affected Contractors shall sign as operators, or co-operators. In this scenario, the Contractor must coordinate as appropriate with DOE and other Contractors affected by the permit.

C. Permit Applications

The Contractor shall provide to DOE for review and comment in draft form any permit applications and other regulatory materials necessary to be submitted to regulatory agencies for the purposes of obtaining a permit. In the event the permit application is

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification statement shall be signed by the individual authorized to sign such certification statements submitted to Federal or state regulatory agencies under the applicable regulatory program.

G. Fines, Penalties, Allowable Costs

The Contractor shall accept, in its own name, service of proposed notices, or notices of, correction, penalty, fine, violation, administrative orders, citation, or notice of alleged violations, (e.g., NOC, NOP, NOF, PNOV, NOV, NOAV) and any similar type notices issued by Federal or State regulators to the Contractor resulting from or relating to Contractor's performance of work under this Contract, without regard to liability. The Contractor shall immediately notify DOE of such receipt and shall provide copies or originals of such documents as soon as possible thereafter. The allowability of the costs associated with fines and penalties shall be governed by provisions of this contract. The Contractor shall have plenary authority to allocate any fines and penalties among its subcontractors based on criteria developed by Contractor and applied in Contractor's sole discretion. The Contractor shall indemnify and hold harmless DOE and its employees, officers, agents from any costs, claims (including third-party claims for damage to persons or property), demands, fines or penalties, including reasonable legal costs, resulting from any failure of the Contractor to comply with applicable permit or regulatory requirements, or resulting from any obligations DOE may incur as a result of signing defective or non-conforming permit applications or submittals prepared by or under the direction of Contractor.

H. Negotiations

DOE may in its discretion choose to be in charge of, and direct, all negotiations with regulatory agencies regarding permits, fines, penalties, and any other proposed notice, notice, administrative order, and any similar type of notice as described in paragraph G above. As directed or required by DOE, the Contractor shall participate in negotiations with regulatory agencies; however, the Contractor shall not make any commitments or offers to regulators purporting to bind or binding the Government in any form or fashion, including monetary obligations, without receiving written authorization or concurrence from the Contracting Officer or his/her authorized representative prior to making such offers/commitments. Failure to obtain such advance written approval may result in otherwise allowable costs being declared unallowable and/or the Contractor being liable for any excess costs to the Government associated with or resulting from such offers/commitments.

I. Termination, Expiration, Permit Transfer

In the event of expiration or termination of this Contract, DOE may require the Contractor to take all necessary steps to transfer on an allowable cost basis some or all environmental permits held by the Contractor. DOE will assume responsibility for such permits, with the approval of the regulating agency, and the Contractor shall be relieved of all liability and responsibility to the extent that such liability and responsibility results from the acts or omissions of a successor Contractor, DOE, or their agents, representatives, or assigns. The Contractor shall remain liable for all unresolved costs, claims, demands, fines and penalties, including reasonable legal costs, arising prior to the date such permits are transferred to another party. Contractor shall not be liable for any such claims occurring after formal transfer unless said claims result from Contractor's action or inaction that occurred prior to transfer.

J. Miscellaneous

The Contractor shall accept assignment or transfer of permits pertaining to matters under this Contract currently held by DOE and its existing Contractor. The Contractor may submit for DOE's consideration, requests for alternate review, comment, or signature schedules for environmental permit applications or other regulatory materials covered by this clause. Any such schedule revision shall be effective only upon written approval from the Contracting Officer.

H.9 **EARNED VALUE MANAGEMENT SYSTEM**

- A. In the performance of this contract, the Contractor shall use an earned value management system (EVMS) that is recognized as meeting the best business practice guidelines provided in ANSI/EIA-748 Standard, Earned Value Management System.
- B. The Contractor agrees to provide access to all pertinent records and data requested by the Contracting Officer or duly authorized representative. Access is to permit Government surveillance to ensure that the EVMS complies, and continues to comply, with the criteria referenced in paragraph A of this clause.
- C. The Contractor shall require subcontractors to comply with the requirements of this clause for applicable work scope.

H.10 **EMERGENCY CLAUSE**

- A. The RL Manager or designee shall have sole discretion to determine when an emergency situation exists at the Hanford Site, except for RPP facilities, affecting site personnel, the public health, safety, the environment, or security. The Manager, Office of River Protection (ORP), or designee has the discretion to determine whether an emergency situation exists under the Waste Treatment and Immobilization Plant contract and other ORP contract areas of work that might affect RL workers. In the event that either the RL or ORP Manager or designee determines such an emergency exists, the RL Manager or designee will have the authority to direct any and all activities of the Contractor and subcontractors necessary to resolve the emergency situation. The RL Manager or

designee may direct the activities of the Contractor and subcontractors throughout the duration of the emergency.

- B. The Contractor shall include this clause in all subcontracts at any tier for work performed at the Hanford Site.

H.11 SHUTDOWN AUTHORIZATION

- A. In the event of a specific imminent environmental, health, or safety hazard, identified by facility line management, DOE Facility Representatives, operators, or facility health and safety personnel overseeing facility operations, the individual or group identifying the specific imminent hazard situation should immediately take actions to eliminate or mitigate the hazard. This shall be accomplished by directing the operator/implementer of the activity or process causing the imminent hazard to shutdown the activity or the facility or by initiating emergency response actions or other actions to protect the health and safety of the workers and the public and to protect DOE facilities and the environment. (DOE designated Facility Representatives provide technical oversight of operations to help line management ensure that the facilities are operated in a safe, healthful, and environmentally acceptable manner in accordance with DOE Orders and other requirements. As such, they have "Stop Work" and "Shutdown Authorization" authority.)

In the event an imminent environmental, health, or safety hazard is identified, the individual or group that identified the hazard should coordinate with an appropriate Contractor official, who will direct as needed, broader shutdown actions or other actions, as required. Such mitigating actions should subsequently be coordinated with the RL Manager, the facility/site DOE management, the RL Contracting Officer and the facility/site Contractor management. The shutdown direction should be promptly confirmed in writing from the cognizant Contracting Officer.

This authority is in addition to the contract clause entitled "Stop-Work Order - Alternate I."

- B. In the event of a non-imminent environmental, health, or safety hazard identified by facility line managers, facility operators, health and safety personnel overseeing facility operations, or by independent oversight organizations, the individual or group identifying the potential environmental, health or safety hazard may recommend corrective action or facility shutdown. However, the recommendation must be coordinated with the Contractor management at the facility, the responsible DOE manager, and the RL Manager. Any written direction to shutdown operations will be issued in coordination with the Contracting Officer.
- C. After shutdown, an operation or facility may become operational only after receiving written authorization from the RL Manager, or his delegated authority, in coordination with the Contracting Officer.
- D. The Contractor shall provide in its purchasing system, required under the contract clause entitled "Subcontracts (Cost Reimbursement and Letter Contracts)," for policies,

practices, and procedures for the flowdown of appropriate requirements of this clause to subcontractors performing work on-site at a DOE-owned or -leased facility. Such subcontracts shall provide for the right to stop work under the conditions described herein.

H.12 SHIPMENT NOTIFICATION

- A. The Contractor and /or Subcontractors shall notify Energy Northwest seven (7) days in advance (1) of any movement of "common" explosives over 1,800 pounds excluding small arms ammunitions or classified shipments within five (5) miles of Energy Northwest and/or, (2) of any railroad shipment from/to Hanford north of the rail spur to the Fast Flux Test Facility.
- B. For Radioactive Placard Shipments, the Contractor shall notify the State of Oregon Department of Energy, ATTN: Oregon/Hanford Transport Safety Analyst, for any shipment through Oregon.

H.13 OPTIONAL SERVICES

The Government may, at its option and during performance of this contract, unilaterally add any or all of the work scope identified in Section C.6 of this contract currently being performed by, CHG, or Bechtel Hanford Inc. (BHI). An equitable adjustment shall be negotiated for any work appropriately authorized and performed as a result of exercise of any portion of this option.

The addition of such added workscope, if any, shall be subject to the requirements of FAR 52.243.1, Changes - Fixed Price, or FAR 52.243.2, Changes - Cost Reimbursement, depending on contract type.

H.14 WITHDRAWAL OF WORK

- A. The Government may, at its option and during the performance of this contract unilaterally have any of the work contemplated by Section C, Statement of Work, of this contract performed by either another Contractor or to have the work performed by Government employees.
- B. Work may be withdrawn; (1) in order for the Government to conduct pilot programs; (2) if the Contractor's estimated cost of the work is considered unreasonable; (3) for less than satisfactory performance by the Contractor; or (4) for any other reason deemed by the Contracting Officer to be in the best interests of the Government.
- C. If the withdrawn work has been authorized under an annual Work Authorization Directive, the work shall be terminated in accordance with the procedures in the contract clause entitled "Termination (Cost-Reimbursement)."
- D. If any work is withdrawn by the Contracting Officer, the Contractor agrees to fully cooperate with the new performing entity and to provide whatever support is required.

H.15 USE OF DOE FACILITIES

The Contractor may conduct programs of local community assistance to mitigate adverse impacts of closure or reconfiguration of DOE facilities. Such programs may provide for the lease or transfer of DOE property at less than fair market value in accordance with the Hall Amendment (Public Law 103-160, Sections 3154 and 3155). Any lease or transfer of DOE property under this program must be prior-approved in writing by the Contracting Officer.

H.16 RESERVED

H.17 SUBCONTRACTS CONSENT AND CONTRACT CLAUSE FLOW DOWN REQUIREMENTS

- A. Prior to the placement of subcontracts and in accordance with the contract clause entitled "Subcontracts, the Contractor shall ensure the following:
- (1) The subcontracts contain all of the clauses of this contract (altered when necessary for proper identification of the contracting parties) which contain a requirement for such inclusion in applicable subcontracts. Particular attention should be directed to the potential flow down applicability of the clauses entitled "Utilization of Small Business Concerns" and "Small Business Subcontracting Plan" contained in PART II, Section I, of the contract;
 - (2) Any applicable subcontractor Certificate of Current Cost or Pricing Data (see FAR Part 15) and subcontractor Representations and Certifications are completed (see the document referenced in the contract clause entitled "Representations and Certifications"); and
 - (3) Any required prior notice and description of the subcontract is given to the Contracting Officer, and any required consent is received. Except as may be expressly set forth therein, any consent by the Contracting Officer to the placement of subcontracts shall not be construed to constitute approval of the subcontractor or any subcontract terms or conditions; determination of the allowability of any cost, revision of this contract or any of the respective obligations of the parties thereunder, or creation of any subcontractor privity of contract with the Government.
- B. The Contractor shall also obtain and furnish to the Contracting Officer either an Organizational Conflict of Interest (OCI) Disclosure Statement or Representation form in accordance with DEAR952.209-72, "Disclosure or representation," from all subcontractors to be used under this contract to perform the types of work identified in DEAR 909.507-1. No work shall be performed by the subcontractor until the Contracting Officer has cleared the subcontractor for OCI, if required.
- C. The Contractor shall ensure that all cost-reimbursable type subcontracts placed for a total amount which exceeds \$5 million shall have incentive provisions based on performance measurements, criteria, and success factors.

- D. In compliance with the Government's initiative of "Streamlining Procurement Through Electronic Commerce," and presenting a "singleface" to industry, the Contractor shall strive to implement, within available funding, an Electronic Commerce System that will generate a paperless, automated, integrated procurement/payment system. This system shall, to the maximum practicable extent, subject to DOE approval, allow for electronic request for quotations, quotations, purchase orders, electronic invoices, and remittance advices; full integration between the procurement, receiving, inventory control and accounting systems; and accounting system programs that compare invoices, receipts, and orders and automatically issue electronic funds transfer payments.

H.18 SUBCONTRACTOR ENVIRONMENT, SAFETY, QUALITY, AND HEALTH REQUIREMENTS

- (a) The U.S. Department of Energy (DOE) and the Contractor are committed to zero accidents on the PHMC work. To that end the Contractor is required to manage the performance of subcontractors to ensure acceptable Environmental, Safety, Quality, and Health (ESQ&H) performance. The level of ESQ&H requirements should be commensurate with the risk and complexity of work subcontracted. The ESQ&H requirements shall be flowed-down to the lowest tier subcontractor performing work on the Hanford site commensurate with the risk and complexity of the work. The Contractor shall have a method to evaluate and manage subcontractor's ESQ&H performance. Such a method for subcontractor evaluation will include elements for pre-qualification, periodic onsite evaluation, and the ability to stop work, or penalize subcontractor for failure to meet contractual ESQ&H performance. These elements may include evaluation of the subcontractor's injury statistics, workers compensation data, regulatory fines and penalties, written ESQ&H programs, past work references, onsite evaluations, etc., as appropriate for the work to be performed on the Hanford site.

H.19 ASSIGNMENT OF SUBCONTRACTS

The Government reserves the right to direct the Contractor to assign to the Government or another Contractor any subcontract awarded under this contract, including lower-tier subcontracts. This clause is required as a flow-down clause in all subcontracts.

H.20 INFORMATION

A. Management of Information Resources

The Contractor shall design and implement Information Resources Management (IRM) capabilities for the Hanford Site in accordance with the Office of Management and Budget (OMB) Circular A-130, Management of Federal Information Resources.

B. Release of Information

- (1) Working with the RL Office of Intergovernmental, Public & Institutional Affairs (IPI) and the Records Manager when appropriate, the Contractor shall be responsible for developing, planning, and coordinating proactive approaches to

timely dissemination of information regarding DOE unclassified activities onsite and offsite.

- (2) The Contractor shall be responsible for following DOE guidelines and/or procedures for all oral, written and audio/visual information material prepared for public use, including technical information.

C. Unclassified, Controlled, Nuclear Information (UCNI)

Documents originated by the Contractor or furnished by the Government to the Contractor, in connection with this contract, may contain Unclassified, Controlled, Nuclear Information as determined pursuant to Section 148 of the Atomic Energy Act of 1954, as amended. The Contractor shall be responsible for protecting such information from unauthorized dissemination in accordance with DOE regulations and directives and the contract clauses entitled "Security" and "Classification/Declassification."

D. Confidentiality of Information

To the extent that the work under this contract requires that the Contractor be given access to confidential or proprietary business, technical, or financial information belonging to the Government or other companies, the Contractor shall, after receipt thereof, treat such information as confidential and agrees not to appropriate such information to its own use or to disclose such information to third parties unless specifically authorized by the Contracting Officer in writing. The foregoing obligations, however, shall not apply to:

- (1) Information which, at the time of receipt by the Contractor, is in the public domain;
- (2) Information which is published after receipt thereof by the Contractor or otherwise becomes part of the public domain through no fault of the Contractor;
- (3) Information which the Contractor can demonstrate was in its possession at the time of receipt thereof and was not acquired directly or indirectly from the Government or other companies;
- (4) Information which the Contractor can demonstrate was received by it from a third party who did not require the Contractor to hold it in confidence.

The Contractor shall obtain the written agreement, in a form satisfactory to the Contracting Officer, of each employee permitted access to such information, whereby the employee agrees that he will not discuss, divulge or disclose any such information or data to any person or entity except those persons within the Contractor's organization directly concerned with the performance of the contract.

The Contractor agrees, if requested by the Government, to sign an agreement identical, in all material respects, to the provisions of this subparagraph D., with each company supplying information to the Contractor under this contract, and to supply a copy of such

agreement to the Contracting Officer. From time to time upon request of the Contracting Officer, the Contractor shall supply the Government with reports itemizing information received as confidential or proprietary and setting forth the company or companies from which the Contractor received such information.

The Contractor agrees that upon request by DOE, it will execute a DOE-approved agreement with any party whose facilities or proprietary data it is given access to or is furnished, restricting use and disclosure of the data or the information obtained from the facilities. Upon request by DOE, such an agreement shall also be signed by Contractor personnel.

- E. The Government reserves the right to require the Contractor to include this clause or a modified version of this clause in any subcontract as directed in writing by the Contracting Officer.

H.21 PRIVACY ACT SYSTEMS OF RECORDS

- A. The Contractor shall design, develop, or adopt the following systems of records on individuals to accomplish an agency function pursuant to the contract clause entitled "Privacy Act."

<u>System No.</u>	<u>Title</u>
DOE-5	Personnel Records of Former Contractor Employees
DOE-11	Emergency Locator Records
DOE-13	Payroll & Locator Records
DOE-14	Report of Compensation
DOE-15	Payroll & Pay-Related Data for Employees of Terminated Contractors
DOE-23	Richland Property System
DOE-28	General Training Records
DOE-31	Firearms Qualifications Requirements
DOE-32	Gov't Motor Vehicle Operator Records
DOE-33	Personnel Medical Records
DOE-35	Personnel Radiation Exposure Records
DOE-40	Contractor Employees Insurance Claims
DOE-43	Personnel Security File
DOE-47	Security Investigations
DOE-51	Employee and Visitor Access Control Records
DOE-53	Access Authorization for ADP Equipment
DOE-58	General Correspondence Files

- B. The above list shall be revised from time to time by mutual agreement between the Contractor and the Contracting Officer as necessary to keep it current. A formal modification to the contract is not required to incorporate these revisions; but, the revisions become effective upon mutual agreement of the parties. The mutually agreed upon revisions shall have the same effect as if actually listed above for the purpose of satisfying the listing requirement contained in paragraph (a)(1) of the contract clause

entitled "Privacy Act." The revisions will be formally incorporated per the next annual contract update modification, unless added sooner by the Contracting Officer.

H.22 PAYMENTS AND ADVANCES

A. Payment of Fee Amounts Earned

Fee payments shall be made by direct payment or withdrawn from funds advanced or available under this contract, as determined by the Contracting Officer. The Contracting Officer may offset against any such fee payment the amounts owed to the Government by the Contractor, including any amounts owed for disallowed costs under this contract. No fee payments may be withdrawn against the payments cleared financing arrangement without prior written approval of the Contracting Officer.

B. Payments on Account of Allowable Costs

Allowable costs, determined in accordance with the cost principles in Subpart 31.2 of the Federal Acquisition Regulation (FAR) as supplemented by Subpart 931.2 of the Department of Energy Acquisition Regulations (DEAR), and other items as approved in writing by the Contracting Officer, shall be made from advances of Government funds limited by Section B.2. "Obligation of Funds." When pension contributions are paid by the Contractor to the retirement fund less frequently than quarterly, accrued costs therefore shall be excluded from costs for payment purposes until such costs are paid. If pension contribution are paid on a quarterly or more frequent basis, accrual therefor may be included in costs for payment purposes, provided that they are paid to the fund within 30 days after the close of the period covered. If payments are not made to the fund within such 30-day period, pension contribution costs shall be excluded from cost for payment purposes until payment has been made.

C. Final FH Incurred Cost Submittal

Proposed charge-out rates for the following fiscal year will be submitted each year in accordance with direction provided in the Baseline Updating Guidance issued in the spring of each year pertaining to the subsequent execution year and outyears.

- (1) The Contractor shall submit an adequate final incurred cost submittal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.

- (a) The submitted cost shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates incurred costs as promptly as practical after receipt of the Contractor's proposal.

(b) Failure by the parties to agree on final annual incurred cost shall be a dispute within the meaning of the Disputes clause.

(2) Quick-closeout procedures. Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

D. Special Financial Institution Account Use

All advances of Government funds shall be withdrawn pursuant to a payments cleared financing arrangement in favor of the bank or, at the option of the Government, shall be made by direct payment or any other payment mechanism to the Contractor, and shall be deposited only in the Special Demand Deposit Account referred to in the Special Bank Account Agreement, which is incorporated into this contract included in Section J. No part of the funds in the Special Demand Deposit Account shall be (1) commingled with any funds of the Contractor or (2) used for a purpose other than that of making payments for costs allowable and, if approved, fees earned under this contract or payments for other items specifically approved in writing by the Contracting Officer. If the Contracting Officer determines that the balance of such Special Demand Deposit Account exceeds the Contractor's current needs, the Contractor shall promptly make such disposition of the excess as the Contracting Officer may direct.

E. Title to Funds Advanced

Title to the unexpended balance of any funds advanced and of any Special Demand Deposit Account established pursuant to this clause shall remain in the Government and be superior to any claim or lien of the bank of deposit or others. It is understood that an advance to the Contractor hereunder is not a loan to the Contractor, and will not require the payment of interest by the Contractor, and that the Contractor acquires no right, title or interest in or to such advance other than the right to make expenditures therefrom, as provided in this clause.

F. Certification and Penalties

The Contractor shall prepare and submit a monthly voucher for the total of costs incurred and accrued for the period covered by the voucher. It is anticipated that this will be a monthly submission unless otherwise agreed to by the Contracting Officer. Vouchers must be formatted in a manner approved by the Contracting Officer. Accompanying the annual final indirect incurred cost submission the Contractor shall provide a certification subject to the penalty provisions for unallowable costs as stated in the contract clause, "52.242-3, Penalties for Unallowable Costs."

G. Financial Settlement

The Government shall promptly pay to the Contractor the unpaid balance of allowable costs and earned fee upon termination of the work, expiration of the term of the contract, or completion of the work and its acceptance by the Government after (1) compliance by the Contractor with DOE's patent clearance requirements, and (2) the furnishing by the Contractor of:

- (1) An assignment of the Contractor's rights to any refunds, rebates, allowances, accounts receivable, collections accruing to the Contractor in connection with the work under this contract, or other credits applicable to allowable costs under this contract;
- (2) A closing financial statement;
- (3) The accounting for Government-owned property required by the clause entitled "Property;" and
- (4) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract subject only to the following exceptions:
 - (a) Specified claims in stated amounts or in estimated amounts where the amounts are not susceptible to exact statement by the Contractor;
 - (b) Claims, together with reasonable expenses incidental thereto, based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided that such claims are not known to the Contractor on the date of the execution of the release; and provided further that the Contractor gives notice of such claims in writing to the Contracting Officer promptly, but not more than one (1) year after the Contractor's right of action first accrues. In addition, the Contractor should provide prompt notice to the Contracting Officer of all potential claims under this clause, whether in litigation or not (see also the contract clause entitled, "Insurance-Litigation and Claims");
 - (c) Claims for reimbursement of costs (other than expenses of the Contractor by reason of any indemnification of the Government against patent liability), including reasonable expenses incidental thereto, incurred by the Contractor under the provisions of this contract relating to patents; and
 - (d) Claims recognizable under the clause entitled, Nuclear Hazards Indemnity Agreement.

In arriving at the amount due the Contractor under this clause, there shall be deducted, (1) any claim which the Government may have against the Contractor in connection with this contract, and (2) deductions due under the term of this contract, and not otherwise recovered by or credited to the Government. The unliquidated balance of the Special Demand Deposit Account may be applied to the amount due and any balance shall be returned to the Government forthwith.

H. Claims

Claims for credit against funds advanced for payment shall be accompanied by such supporting documents and justification, as the Contracting Officer shall prescribe.

I. Discounts

The Contractor shall take and afford the Government the advantage of all known and available cash and trade discounts, rebates, allowances, credits, salvage, and commissions unless the Contracting Officer finds that action is not in the best interest of the Government.

J. Collections

All collections accruing to the Contractor in connection with the work under this contract, except for the Contractor's fee and royalties in accordance with this contract, shall be Government property and shall be processed and accounted for in accordance with applicable requirements imposed by the Contracting Officer and, to the extent consistent with those requirements, shall be deposited in the Special Demand Deposit Account or otherwise made available for payment of allowable costs under this contract, unless otherwise directed by the Contracting Officer.

K. Direct Payment of Charges

The Government reserves the right, upon ten days written notice from the Contracting Officer to the Contractor, to pay directly to the persons concerned, all amounts due which otherwise would be allowable under this contract. Any payment so made shall discharge the Government of all liability to the Contractor therefor.

H.23 ASSIGNMENT OF DOE PRIME CONTRACTS

During the period of performance of this contract it may become necessary for the U.S. Department of Energy (DOE) to transfer and assign (and Contractor agrees to accept) existing or future DOE prime contracts supporting site work to this contract. The transfer of these prime contracts will be for administration purposes and in effect the transferred contracts will become subcontracts to this contract. Details of the transfer will be determined by the DOE prior to the transfer. Any recommendations and/or suggestions on individual transfers should be submitted in writing to the Contracting Officer prior to the transfer or assignment.

H.24 RESERVED

H.25 ADVANCE UNDERSTANDING ON PERSONNEL COSTS, POLICIES AND PROCEDURES

The DOE has reached an Advance Understanding with the Contractor on certain personnel costs, related expenses, policies, and procedures. These costs are those associated with personnel policies and procedures which the Contractor will apply to work under this contract. The personnel policies and procedures require DOE's advance review and written approval from the Contracting Officer. Any exceptions noted in the Contracting Officer's written approval will govern the Contractor's application of the

personnel policies and procedures under this contract. The Advance Understanding will be part of this contract and included in Section J.

DOE approval is also required for the annual salary paid to the person designated as the Contractor's top management official identified in the contract clause entitled "Key Personnel." The annual salary excludes bonus or incentive compensation pay, as it is currently not an allowable cost under this contract. In addition, the top management official's annual salary shall act as a cap on the allowable annual salary costs for other officials designated as key personnel and identified in the contract clause entitled "Key Personnel." Annual salary for other key personnel also excludes bonuses or incentive compensation pay, as it is currently not an allowable cost under the contract. In addition, any salary increase for other key personnel must be within the contractor's established salary range for the position and in accordance with the Contractor's salary increase distribution program. Any compensation for other key personnel exceeding these limitations shall be considered unallowable unless specifically pre-approved by the Contracting Officer.

H.26 RESERVED

H.27 RESERVED

H.28 LABOR RELATIONS

- A. The Contractor will respect the rights of employees (1) to organize, form, join, or assist labor organizations; bargain collectively through representatives of the employees own choosing; and engage in other protected concerted activities for the purpose of collective bargaining, or (2) to refrain from such activities.
- B. To the extent required by law, the Contractor shall give notice to any lawfully designated representative of its employees for purposes of collective bargaining and, upon proper request, bargain to good faith impasses or agreement, or otherwise satisfy applicable bargaining obligations.
- C. The Contractor shall promptly advise the Contracting Officer of, and provide all appropriate documentation regarding, any labor relations developments at the prime or subcontract level that involve or appear likely to involve:
 - (1) Possible strike situations affecting the facility;
 - (2) Referral to the Energy Labor-Management Relations Panel;
 - (3) The National Labor Relations Board at any level;
 - (4) Recourse to procedures under the Labor-Management Act of 1947, as amended, or any other Federal or state labor law; or
 - (5) Any grievance that may reasonably be assumed to be arbitrated under a Collective Bargaining Agreement.

- D. Cost of wages and fringe benefits, to employees represented by collective bargaining units, not in excess of those provided in the collective bargaining agreements shall be allowable. The costs associated with grievance processing and settlements, arbitration, and arbitration awards shall be allowable in accordance with the provisions of the contract clause entitled "Insurance - Litigation and Claims." All other costs and expenses incurred pursuant to the provision of the collective bargaining agreements and revisions thereto are allowable costs hereunder.

H.29 DETERMINATION OF APPROPRIATE LABOR STANDARDS

DOE shall determine the appropriate labor standards in accordance with the Davis-Bacon Act, which shall apply to work performed under this contract. Where requested by DOE, the Contractor shall provide such information in the form and timeframe required by DOE, as may be necessary for DOE to make such labor standards determinations. The Contractor will then be responsible for ensuring that the appropriate labor standards provisions are included in subcontracts.

H.30 RESERVED

H.31 HANFORD SITE STABILIZATION AGREEMENT

- A. The Site Stabilization Agreement for all construction work for the DOE at the Hanford Site consists of a Basic Agreement dated September 10, 1984, plus an Appendix A. (The Site Stabilization Agreement is available in the DOE Public Reading Room. The Site Stabilization Agreement will be made a part of this contract by reference upon award. The Contractor shall be required to comply with the most current Site Stabilization Agreement, and as modified throughout performance of the contract.)
- B. This clause applies to employees performing work under RL contracts or subcontracts subject to the Davis-Bacon Act, in the classifications set forth in the Site Stabilization Agreement for work performed at the Hanford Site.
- C. Contractors and subcontractors at all tiers who are parties to an agreement(s) for construction work with a Local Union having jurisdiction over RL construction work performed at the Hanford Site, or who are parties to a national labor agreement for such construction work, shall become signatory to the Site Stabilization Agreement and shall abide by all of its provisions, including its Appendix A. Subcontractors at all tiers who have subcontracts with a signatory Contractor or subcontractor shall become signatory to the Site Stabilization Agreement and shall abide by all of its provisions, including its Appendix A.
- D. Contractors and subcontractors at all tiers who are not signatory to the Site Stabilization Agreement and who are not required under paragraph C above to become signatory to the Site Stabilization Agreement shall pay not less and no more than the wages, fringe benefits, and other employee compensation set forth in Appendix A and shall adhere, except as otherwise directed by the Contracting Officer, to the following provisions of the Site Stabilization Agreement:

1. Article VII Employment, Section 2 only
 2. Article XII Non-Signatory Contractor Requirements
 3. Article XIII Hours of Work, Shifts, and Overtime
 4. Article XIV Holidays
 5. Article XV Wage Scales and Fringe Benefits,
Sections 1 & 2 only
 6. Article XVII Payment of Wages-Checking In & Out,
Section 3 only
 7. Article XX General Working Conditions
 8. Article XXI Safety and Health
- E. The Contractor agrees to make no contributions in connection with this contract to Industry Promotion Funds, or similar funds, except with the prior approval of the Contracting Officer.
- F. The obligation of the Contractor and its subcontractors to pay fringe benefits shall be discharged by making payments required by this contract in accordance with the provisions of the amendments to the Davis-Bacon Act contained in the Act of July 2, 1964, (Public Law 88-349-78 Stat. 238-239) and the Department of Labor regulations in implementation thereof (29 CFR, Parts 1,3,5).
- G. The Contracting Officer may direct the Contractor to pay amounts for wages, fringe benefits, and other employee compensation if the Site Stabilization Agreement, including its Appendix A, is modified by the involved parties.
- H. (1) In the event of failure to comply with paragraphs C, D, E, F, and G above, or failure to perform any of the obligations imposed upon the Contractor and its subcontractors, the Contracting Officer may withhold any payments due to the Contractor and may terminate the contract for default.
- (2) The rights and remedies of the Government provided in this paragraph (1) above shall not be exclusive and are in addition to any other rights and remedies of the Government provided by law or under this contract.
- I. The requirements of this paragraph are in addition to, and shall not relieve the Contractor of any obligation imposed by other clauses of this contract, including those entitled "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act-Overtime Compensation," "Payrolls and Basic Records," "Compliance with Copeland Act Requirements," "Withholding of Funds," and "Contract Termination--Debarment."

- J. The Contractor agrees to maintain its bid or proposal records showing rates and amounts used for computing wages and other compensation, and its payroll and personnel records during the course of work subject to this paragraph, and to preserve such records for a period of 3 years thereafter for all employees performing such work. Such records will contain the name, address, social security number of each such employee, correct classification, rate of pay, daily and weekly number of hours worked, and dates and hours of the day within which work was performed, deductions made, and amounts for wages and other compensation covered by paragraphs C, D, E, F, and G. of this contract clause. The Contractor agrees to make these records available for inspection by the Contracting Officer and will permit employee interviews during working hours on the job.
- K. The Contractor agrees to insert this clause, including this paragraph K, in all subcontracts for the performance of work subject to the Davis-Bacon Act.

H.32 RESERVED

H.33 PERFORMANCE OBJECTIVES, MEASURES, EXPECTATIONS, AND FEE DISTRIBUTION

A. Establishment of Baseline Performance Incentives

The Government will develop performance objectives, measures, and expectations along with related fee distribution for the contract period. The performance incentives and fee distribution will reflect the priority and importance that DOE places on accomplishment of key results. The Contractor may propose additional performance objectives, measures, and expectations which may be negotiated prior to placement in the contract. The final determination of incentives and related fee distribution will be made solely by DOE, after discussion with the Contractor, and DOE may unilaterally add any and all of them in a modification to this contract. However, if the Contractor disagrees with the established objectives, measures, expectations, and related fee distribution, the Contractor may appeal the determination to the RL Manager. However, the final decision shall be at the unilateral discretion of the RL Manager. The objectives, measures, expectations, and related fee distribution will be set forth in Section J, Appendix D, of this contract.

B. Performance Incentive

After determination of objectives, measures, expectations, and related fee distribution, the Contractor and DOE shall execute Performance Incentives and incorporate them into Section J, Appendix D, for each incentive. The Performance Incentives set forth the agreed upon criteria/specification for acceptable performance of such objectives, measures, and expectations. The criteria/specifications set forth in the Performance Incentives should be mutually agreed to by both DOE and the Contractor. In the event the parties cannot mutually agree, the final decision shall be made at the unilateral discretion of the RL Manager.

C. Interference

In the event the Contractor believes the DOE has interfered with its ability to meet specific performance incentives, it may present evidence to support this position along with a proposed adjustment to the RL Manager. The RL Manager will make a determination and provide a copy of that determination to the Contractor. The determination will be at the unilateral discretion of the RL Manager.

This Contract contains Performance Based Incentives (PBIs) that provide the opportunity for the Contractor to earn fee. A change of conditions, circumstances, funding, or assumptions which impact Contractor's ability to meet a PBI shall constitute a change under Clause I.74 and will be processed to subsections (b) through (e) thereof in a timely manner, when such changes are beyond the Contractor's reasonable control. For the purpose of changes hereunder the reference to "fixed-fee" in Clause I.74 shall be considered to be a reference to PBI/fee.

D. Changes

The parties agree that changes to conditions, circumstances, funding, or assumptions beyond the control of the Contractor, including but not limited to those identified below will constitute a change. Even though an event/occurrence may arise, depending upon the issue and impacts, it may or may not result in an equitable adjustment under the contract.

1. Scope or requirements changes from the existing baseline, including
 - (i) DOE Directive, order, or manual changes or DOE mandated interpretations of directive, manual or order implementation requirements
 - (ii) Statutory or regulatory changes (e.g. DEAR, FAR, WAC permits, records of decision)
 - (iii) Work scope modifications and responsibility (e.g., scope transfers from the PHMC to another contractor, scope transfers from another contractor or DOE to the PHMC, addition or deletion of scope by DOE or other government agency)
 - (iv) Pre-Existing conditions that result in a technical, schedule, or cost impact (I.5)
 - (v) Changes in anticipated facility conditions, waste or material volumes (I.143 & I.144)
2. Changes in funding or timeliness of funding receipt, including, reduction to contract funding profile by control point as documented in the baseline (excluding work for others values).

3. Failure to meet GFS/I schedules as defined in Section C and in the Performance Incentives.
4. Revisions to Tri-Party Agreement Milestones
5. Written direction from a DOE Official or failure to provide timely direction which have a demonstrable effect on the performance of the contract, including documented technical assumptions.
6. Actual escalation and taxes and plans "T&P" rates (including pension contributions) which are higher than the DOE directed or accepted rates in the Contractor's baseline planning assumptions.
7. Force majeure

NOTE: None of the above constitute a deviation from the existing terms and conditions of the contract.

E. Calculation of Change Impact

1. DOE and the Contractor shall jointly determine the value of any baseline change by using a formula that calculates the difference between the baseline value of any component to a scope of work (e.g., labor rates) and the actual expenditures, forecasted costs, or actuarial assumptions made for said component tabulated for a specific time period.
2. DOE and the Contractor shall negotiate the value of any incremental work by:
 - (i) Agreeing to the time (duration and labor hours) needed to effect the change without consideration of whether scope is performed by existing or new resources
 - (ii) Agreeing to other associated costs (materials, subcontracts) needed to effect the change.

F. Equitable Adjustments

As identified in Paragraph D., "Changes", of this clause, DOE agrees to provide a contract adjustment when the Contractor demonstrates that an impact on performance occurred as a result of changed event or occurrence. The Contractor shall document the impacts of the contract changes in accordance with Section C.5.3, Management Products and Controls, Change Control. Approved changes shall be accumulated until the cumulative value reaches \$3,000,000, upon which time the Contractor and DOE shall negotiate a mutually acceptable contract adjustment. Acceptable contract adjustments include:

1. Increase to contract funding levels equal to the cumulative value of approved changes;

2. Deletion of contract scope of a value equal to the cumulative value of approved changes;
3. Adjustment to contract performance incentives and fee allocations to maintain Contractor fee earnings potential.

To the extent practical, the Contractor shall establish mechanisms to collect costs associated with all approved changes. For contract scope changes that are complete when the cumulative value of changes reaches \$3,000,000, the Contractor shall adjust the change value to reflect actual costs. The Contractor agrees to reduce the cumulative value if actual costs are less than the change estimate. The DOE agrees to increase the cumulative value if actual costs are higher than the change estimate.

For changes that are estimated to cost the DOE less than \$100,000, the Contractor shall formally notify DOE of the expected impact, but will not be required to submit a Baseline Change Request (Section C.5.3) until the action is complete. Upon receipt of the Contractor notification of an impact, DOE may direct the Contractor to proceed with the action and accumulate costs, stop the action, or delay the action until a contract change is approved in accordance with Section C.5.3. The Contractor shall not proceed with the change until directed by DOE. If DOE directs the Contractor to proceed with the action, the Contractor shall accumulate costs and submit a Baseline Change Request for the actual costs incurred once the activity is complete.

G. Positive and Negative Incentives

Performance objectives, measures, and/or expectations have fee directly assigned to their accomplishment, or have a negative deduction from earned fee for failure to accomplish, as described within the Performance Based Incentive. If the negative level of performance is not surpassed, no fee will be paid for these objectives, measures and/or expectations and further negative deduction will be made from other fees earned. In no event, however, would the aggregate of all negative deductions exceed the amount of fee earned for the given Fiscal Year (FY). Furthermore, for each FY the aggregate of all negative deductions actually invoked shall not exceed 20% of the total available fee in a given year for all Performance Incentives. Nothing within this clause is intended to limit the Government's rights pursuant to the Conditional Payment of Fee Clause.

H. Accomplishment of Incentives

In order for any expectation to be considered performed, not only must it meet the criteria of the Performance Incentive, but the work must be accomplished within the approved cost and schedule thresholds specified in the PI, as modified through the Change Control process.

I. Fee Re-Allocation due to Cancellation or Changes

If, for any reason, DOE cancels an objective, measure, and/or expectation, the fee attached to that objective, measure, and/or expectation shall be reallocated to a new

objective, measure, and/or expectation or to existing other objectives, measures, and/or expectations or to both new and existing objectives, measures, and/or expectations. The decision as to the new objective, measure and/or expectation and/or the decision as to which existing objectives, measures, and/or expectations fee may be reallocated, is at DOE's unilateral discretion.

J. Provisional and Progress Fee Payment

Upon successful completion of a provisional or progress incentive payment event as defined in one of the specific performance incentives set forth in Section J, Appendix D, the contractor shall request and receive Contracting Officer approval prior to drawing down fee from the payments cleared financing arrangement. The Contractor's request for payment shall occur no more frequently than once per month. If the Contractor fails to successfully complete the subsequent event upon which the provisional payment of fee is conditioned, the contractor shall refund to the government the provisional payments it has received that are associated with the missed performance based event. The Contractor shall reimburse such overpayment to the Government upon demand, payable with interest in accordance with the contract clause entitled "Interest." Fee from the comprehensive, annual, and multi-year PBIs, which is unearned for failure to meet PBI requirements, is forfeited.

K. Superstretch Incentives

Performance incentives addressing superstretch goals should be developed prior to the beginning of the fiscal year, but may be developed and implemented during the term of the contract. The Contractor shall coordinate with the RL Manager or designee to identify superstretch goals. The fee for accomplishment of superstretch goals will be paid from a share of the cost of the accelerated work and will be outside the fee pool identified in the clause entitled "Estimated Cost and Fee." The accelerated workscope must be identified and authorized by a Baseline Change Request (BCR) approved by the RL Manager. The BCR shall document the scope, cost, and funding source necessary to incorporate the accelerated workscope into the baseline. The superstretch costs will be identified in the BCR and will include fee at the rate of up to 20% of the revised BCWS of the accelerated workscope. A copy of the performance incentive shall be attached to the BCR.

The BCR will be processed through the FH and RL integrated Change Control Boards. When the work is complete, a package documenting completion of the work will be prepared and submitted to DOE for approval. Approval of the completion package by DOE will authorize payment to the Contractor of the fee earned.

The superstretch performance incentives must be performed in accordance with the cost and schedule criteria identified in the performance incentive. The cost savings must be realized through efficiencies and/or workscope deletions and not deferrals.

The use of superstretch incentives is at the sole discretion of the RL Manager.

L. Multi-Year Incentives

A multi-year performance based incentive is any PBI in which the requirements are established in one fiscal year but the final completion date extends into a future fiscal year.

H.34 SEGREGATION OF COSTS

- A. Whenever the contract contains both fixed-price and cost-type efforts, the Contractor shall maintain separate accounts for each unique contract type by Contract Line Item Number (CLIN), by task order, or other suitable accounting procedure of all incurred segregable costs of work allocable to the work effort directly related to each arrangement.
- B. Whenever the contract contains a provision for an incentive for a portion of the work effort, the Contractor shall maintain separate accounts, by CLIN, work authorization, task order, or other suitable accounting procedure of all incurred segregable costs of work related to the incentive.
- C. The Contractor shall maintain all such accounts, required pursuant to the paragraphs above, in accordance with the clauses "Ownership of Records" and "Accounts, Records and Inspection, but, in no case, for a period of less than 3 years following the Government's determination of the applicable incentive fee.

H.35 PROVISIONAL PAYMENT OF FEE FOR COMPREHENSIVE AND ANNUAL PBI'S

- A. Provisional payments of fee may be paid before the final determination of fee. Such provisional payments may be made at the discretion of the Contracting Officer on a monthly basis up to a maximum amount for the fiscal year not-to-exceed 70 percent of the performance fee pool.
- B. DOE agrees to pay to the Contractor, at the discretion of the Contracting Officer, on a provisional basis an amount up to 10% of the annual performance fee pool in each of the first two calendar months of each Fiscal Year and 5% in each calendar month thereafter.
- C. The final fee determination will be made at the unilateral discretion of the Contracting Officer or RL Manager, as appropriate, in accordance with the fee clauses of this contract. In the event overpayment results from the payment of fee on a provisional basis, the Contractor shall reimburse such overpayment to the Government upon demand, payable with interest in accordance with the contract clause entitled "Interest."
- D. Fee associated with multi-year incentives is not subject to this clause.

H.36 SHARING EARNED FEES WITH EMPLOYEES

The Contractor as set forth herein will continue a merit based employee fee sharing program to motivate and recognize employees and improve performance. The fee sharing process will be described in a site wide procedure. For each year in which the Contractor earns fee in excess of

60% of the fee available for annual performance based incentives, the comprehensive incentive, and progress payments based on completion dates in the multiyear incentives, the Contractor will set aside 5% of its total earned fee for each fiscal year to be provided to its employees as stipulated in the site wide procedure.

H.37 RESERVED

H.38 RESERVED

H.39 CONTRACTOR CONTROLLED INSURANCE PROGRAM

- A. The Contractor shall procure, at no cost to the DOE, a Contractor Controlled Insurance program (CCIP), as set forth in the Contractor's proposal dated March 25, 1996 to the extent available on a commercially reasonable basis.

The Contractor support the DOE's efforts to improve their insurance program by the collection of insurance claim statistics and information. They will assist the DOE by complying with the insurance reporting requirements as defined by DOE Order 350.1 Change 1.

(No changes to the unredacted text).

This clause does not apply to liabilities covered by the Nuclear Hazards Indemnity Agreement.

H.40 INDIRECT COST ALLOCATIONS

For the base contract and any extensions thereof, allocations of home office and corporate office general and administrative (G&A) expenses are allowable only to the extent provided for under this Clause. In recognition of the nature of work performed under this Contract, the Contractor may propose a special allocation of residual home office expenses in accordance with 48 CFR 9904.403-40(c)(3). Such proposal will be processed in accordance with Cost Accounting Standards requirements and DOE policy. Formal approval of a special allocation of home office residual expenses by the Contracting Officer would, accordingly, make such allocable costs allowable under this Contract up to a maximum annual amount of \$1,500,000.

In the absence of an approved special allocation, as discussed above, limits are hereby placed on the Government liability under this Contract for the Contractor's corporate and home office allocation. The amount of \$500,000 per year represents the annual ceiling amount that may be reimbursed under this Contract. The Contractor may bill provisionally by prorating the appropriate ceiling amount on an annualized basis.

H.41 AUTHORIZATION AGREEMENTS

In accordance with the Integrated Environment, Safety and Health Management System Description, initial Authorization Agreements (AAs) will be developed by FH and approved by DOE-RL, and subsequently maintained by FH. The purpose of an AA is to serve as a

mechanism whereby the U.S. Department of Energy, Richland Operations Office (RL) and Fluor Hanford, Inc., (FH) jointly clarify terms and the key conditions for conducting work safely and efficiently in a facility. The AAs will be developed and maintained for all facilities as deemed necessary by DOE RL. Approved AAs shall be updated annually by FH to incorporate documents approved by DOE or other regulators, and submitted to RL for information. The AAs will not alter any terms and conditions of the Project Hanford Management Contract (PHMC) and do not impose on FH any liabilities, fines, or penalties not already imposed under the terms and conditions of the PHMC and current statutes, rules, regulations and ordinances.

H.42 RESERVED

H.43 LOBBYING RESTRICTION (ENERGY & WATER DEVELOPMENT APPROPRIATIONS ACT, 1999)

The Contractor or Awardee agrees that none of the funds obligated on this award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulations.

H.44 LOBBYING RESTRICTION (DEPARTMENT OF INTERIOR & RELATED AGENCIES APPROPRIATIONS ACT, 1999)

The Contractor or Awardee agrees that none of the funds obligated on this award shall be made available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which Congressional action is not complete. This restriction is in addition to those prescribed elsewhere in statute and regulations.

H.45 TRAVEL RESTRICTIONS

A. For contractor travel expenses incurred on or after October 1, 2000 and before October 1, 2001 a ceiling limitation of \$1,620,000 shall apply to all reimbursements made for contractor travel expenses, funded by the Energy and Water Development Appropriations Act under this contract. Expended funds which exceed the established ceiling will be unallowable unless otherwise authorized by the contracting officer.

B. Some travel costs are exempt from the ceiling, examples are:

1. Travel performed under work for others agreements;
2. Travel of subcontractors;
3. Travel of non-DOE users to participate in experiments at DOE user facilities;
4. Travel costs of travel management centers;
5. Travel costs fund by other appropriations;
6. Relocation costs;
7. Costs of workshops/seminars (other than travel costs), such as, rental of meeting rooms, public address equipment, speakers' fees;
8. Registration costs of training classes.

9. Travel expenses within the Laboratory Directed Research and Development program; and
 10. Travel associated with recruitment.
- C. Notwithstanding any other provisions of the contract or the source of funding, the contractor further agrees that none of the funds obligated under the contract may be used to reimburse employee travel costs incurred on or after October 1, 2000 and before October 1, 2001 which exceed the rate and amounts that apply to federal employees under subchapter I of Chapter 57 of Title 5, United States Code. To the extent that this contract provides elsewhere for the reimbursement of employee travel costs which exceed the rates and amounts that apply to federal employees under subchapter I of Chapter 57 of Title 5, United States Code. Costs which exceed these rates and amount will be unallowable. This restriction is in addition to those prescribed elsewhere in statute or regulation.
- D. Costs incurred for lodging, meals, and incidental expenses are considered reasonable and allowable to the extent that they do not exceed the maximum per diem rates in effect at the time of travel as set forth in:
- (i) Federal Travel Regulations (FTR) for travel within the 48 states;
 - (ii) Joint Travel Regulations (JTR) for travel in Alaska, Hawaii, the Commonwealth of Puerto Rico, and territories and possessions of the United States; or
 - (iii) Standardized Regulations (SR) for travel allowances in foreign areas.
- E. Subparagraph (C) does not incorporate the regulations cited above in their entirety. Only the coverages in the referenced regulations addressing the maximum per diem rates, the definitions of lodging, meals, and incidental expenses, and special or unusual situations are applicable to contractor travel.
- F. Airfare costs in excess of the lowest customary standard, coach, or equivalent airfare offered during normal business hours are unallowable except when such accommodations require circuitous routing, require travel during unreasonable hours, excessively prolong travel, result in increased cost that would offset transportation savings, are not reasonably adequate for the physical or medical needs of the traveler, or are not reasonably available to meet mission requirements. However, in order for airfare costs in excess of the above standard airfare to be allowable, the applicable condition(s) set forth above must be documented and justified.

H.46 OCCUPATIONAL MEDICAL RECORDS AND RADIATION EXPOSURE RECORDS

The Contract Clause entitled "Access to and Ownership of Records" is implemented as follows with respect to occupational health records and radiation exposure records:

All occupational health records generated during the performance of Hanford-related activities will be maintained by the Hanford Site Occupational Medical Contractor and are the property of DOE. All radiation exposure records generated during the performance of Hanford-related

activities will be maintained by the Pacific Northwest National Laboratory (PNNL) and are the property of DOE.

H.47 WORKERS' COMPENSATION

Pursuant to State of Washington Revised Code (RCW) Title 51, the Department of Energy (DOE), Richland Operations Office (RL) is a group self-insurer for purposes of workers' compensation coverage. The coverage afforded by the workers' compensation statutes shall, for performance of work under this contract, including work of pre-selected subcontractors, be subject to the following:

- A. The terms of a Memorandum of Understanding (MOU) with the Washington Department of Labor and Industries (L&I) by which DOE has agreed to perform all functions required of self-insurers in the State of Washington. While this MOU is in effect, the Contractor is not required to pay for workers' compensation coverage or benefits except as otherwise provided below or as directed by the Contracting Officer.
- B. The Contractor shall submit to DOE (or other party as designated by the Contracting Officer for transmittal to the L & I) such payroll records required by the workers' compensation laws of the State of Washington.
- C. The Contractor shall submit to DOE (or other party as designated by the Contracting Officer), for transmittal to L&I, the accident reports provided for by RCW Title 51, Section 51.28.010, or any other documentation requested by DOE or the L&I pursuant to the workers' compensation laws of the State of Washington.
- D. The Contractor shall take such action, and only such action, as DOE (or other party as designated by the Contracting Officer) requests in connection with any accident reports, including assistance in the investigation and disposition of any claim thereunder and, subject to the direction and control of DOE, the conduct of litigation in the Contractor's own name in connection therewith.
- E. The Contractor shall be responsible for making all payments and submitting all reports required by RCW Title 51, Section 51.32.073.

H.48 AGREEMENT REGARDING PROPOSED CLAUSES

This contract modification includes clauses which have not been finalized through the formal rule making process. The Department of Energy anticipates promulgation of formal clauses, or revisions to the clauses, contained in this contract modification prior to, or shortly after, the effective date of this modification. Subsequent to such promulgation, the Contractor agrees to negotiate, in good faith, the substitution of these revised clauses for the corresponding existing contract Clauses. Absent material changes to the above clauses in the Final Rule(s)

promulgating the clauses which would substantially increase the contractor's financial or corporate risk, the Contractor agrees to accept the final Departmental versions of these clauses.

- A. Section I clauses identified with a publication date of "(Month and Year TBE)" are clauses contained in the March 13, 2000 Federal Register Proposed Rule.
- B. Section I clauses identified with a publication date of "(XXX 2000)" are intellectual property clauses which are being prepared by the Department for release to the public as either a Proposed Rule or an Interim Final Rule.
- C. Section I. Conditional Payment of Fee Clause

H.49 ALTERNATIVE DISPUTE RESOLUTION

- A. The U.S. Department of Energy (DOE) and the Contractor both recognize that methods for fair and efficient resolution of significant disputes are essential to the successful and timely achievement of critical milestones and completion of all Contract requirements. Accordingly, the parties agree to:
 - 1. Participate in a partnering workshop to be conducted by an experienced professional jointly agreed upon by the parties, and,
 - 2. Jointly select a "standing neutral" within 30 days of completion of the partnering workshop. The "standing neutral" will be available to help resolve disputes as they arise. Such "standing neutral" can be an individual, a board comprised of three independent experts, or a company with specific expertise in the Contract area. If a "standing neutral" cannot be agreed upon, the DOE Office of Dispute Resolution will make a selection. The specific ADR processes and procedures, as well as the processes for selecting the "standing neutral" will be determined at the partnering workshop.
- B. The parties agree the following provision may be invoked for significant disputes upon mutual agreement of the RL Manager, and the President of FHI:
 - 1. DOE and the Contractor shall use their best efforts to informally resolve any dispute, claim, question, or disagreement by consulting and negotiating with each other in good faith, recognizing their mutual interests, and attempting to reach a just and equitable solution satisfactory to both parties. If an agreement cannot be reached through informal negotiations after 30 days, then such disagreement shall be referred to the "standing neutral," pursuant to the procedures jointly developed in the partnering workshop.
 - 2. The "standing neutral" will not render a decision, but will assist the parties in reaching a mutually satisfactory agreement. In the event the parties are unable after 30 days to reach such an agreement either party may request, and the neutral will render, a non-binding advisory opinion. Such opinion shall not be admissible in evidence in any subsequent proceedings.

C. Formal Complaint

If the disputed issue is eligible to be brought pursuant to the Disputes Clause and is not resolved through the "Standing neutral" process, no later than 30 days after the completion of said process or a determination that said process will not be invoked, either party may proceed under the Section I Clause, *Disputes*.

H.50 CLAUSES RELATED TO DOE ORDER 350.1, CHANGE 1

The Department of Energy anticipates promulgation of clauses and amendment of the Cost Principle at DEAR 970.3102-05-6 related to Contractor Human Resource Management Programs that are currently found in DOE Order 350.1, Change 1. Subsequent to such promulgation, the Contractor agrees to incorporate all required clauses and negotiate the cost and resource impacts needed to implement these clauses.

H.51 CONDITIONAL PAYMENT OF FEE (CPOF) SITE SPECIFIC PERFORMANCE CRITERIA/REQUIREMENTS

This Clause supplements Contract Clause I.20, DEAR 970.5215-3 (JAN 2004), Conditional Payment of Fee, Profit, and Other Incentives-Facility Management Contracts, Alternate II, by establishing site specific Environment, Safety and Health (ES&H), and Security performance criteria/requirements. Performance failures relating to the performance criteria set forth in this Clause will be processed in accordance with the provisions of Clause I.20, DEAR 970.5215-3, Alternate II. The site specific performance criteria/requirements contained herein will be reviewed periodically and may be modified by mutual agreement.

For the purposes of applying this clause, the term evaluation period shall mean the October through March or April through September period in which the performance failure occurred. Failure to make corrective actions in a timely manner may constitute an independent basis for reductions being taken from subsequent 6-month evaluation periods.

Site Specific Performance Criteria/Requirements in Clause I.20, DEAR 970.5215-3, Alternate II for (c) Environment, Safety and Health (ES&H), and (d) Safeguarding Restricted Data and Other Classified Information are as follows:

(c) *Environment, Safety and Health (ES&H)*

- (3) Third Degree: Performance failures that reflect a lack of focus on improving ES&H. They include failures to comply with an approved Integrated Safety Management System (ISMS) that result in potential breakdown of the System. The following performance failures or performance failures of similar import will be considered third degree:

- (i) Failure to report accurate data necessary to demonstrate regulatory compliance to enforceable regulations.
- (ii) OSHA Total Recordable Case Rate - Two consecutive quarters that the collective FH quarterly average exceeds 1.9 cases/200,000 hours.
- (iii) OSHA Lost Work Day (Days Away from Work, or Restricted Work Days, or both) Case Rate - Two consecutive quarters that the collective FH quarterly average exceeds 0.8 cases/200,000 hours.
- (iv) Missed Milestones - One or more Hanford Federal Facility Agreement and Consent Order (Tri-Party Agreement) missed milestone.
- (v) Environmental Permit Violations - Two or more permit violations in a 12 month period.
- (vi) Control of Radioactive Contamination –
 - a) An event resulting in the loss of control of radioactive material to the public from FH-managed facilities/activities exceeding 20 times 10 CFR 835, Appendix E, values.
 - b) An event resulting in the estimated loss, damage and/or clean-up to property exceeding \$250,000.
 - c) A single occurrence in any 12 month period resulting in the skin contaminations of 5 or more individuals at a level exceeding the total contamination limits identified in 10 CFR 835, Appendix D.
 - d) A single event in which 5 or more individuals or 5 or more events in any 12 month period in which 1 or more individuals exceed confirmed internal depositions greater than 100 mRem.
 - e) Multiple radiological events at one or more facilities that in aggregate indicate a significant loss of radiological control.
- (vii) Control of Radiation Exposure –
 - a) Radiation exposure to an individual exceeding 2.0 rem total effective dose equivalent in a year without prior DOE approval, or exposure to an individual exceeding any of the limits of 10 CFR 835.202, 835.206, 835.207, or 835.208.
 - b) Three or more individuals exceed confirmed internal depositions greater than 1.0 rem CEDE in any 12-month period.
- (viii) Technical Safety Requirement/Operational Safety Requirement Violation - Greater than 3 incidents at an individual nuclear facility/activity or greater than 10 incidents overall in any 12 month period.

- (ix) Positive Unreviewed Safety Question Determinations Not Self-Identified - Greater than 1 incident at an individual nuclear facility/activity or greater than 3 incidents overall in any 12 month period.
- (x) Criticality Safety Infraction Not Self-Identified - Greater than 1 incident at a nuclear facility/activity in any 12 month period.
- (xi) Transportation Safety – Two or more FH events, as defined by DOE M 231.1-2, Group 8, Criteria 1, 2 or 3 in any 12 month period.

(d) *Safeguarding Restricted Data and Other Classified Information*

- (1) First Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have resulted in, or that can reasonably be expected to result in, exceptionally grave damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered first degree:
 - (i) Theft, loss or diversion of category I or II special nuclear material (SNM) that is due to a failure or inadequacy of performance by the contractor.
- (2) Second Degree: Performance failures that have been determined, in accordance with applicable law, DOE regulation, or directive, to have actually resulted in, or that can reasonably be expected to result in, serious damage to the national security. The following are examples of performance failures or performance failures of similar import that will be considered second degree:
 - (i) Theft, loss or diversion of category III or IV special nuclear material, or any non-SNM radioactive, sensitive, or dangerous material that is due to a failure or inadequacy of performance by the contractor.
- (3) Third Degree: Performance failures that have been determined, in accordance with applicable law, regulation, or DOE directive, to have actually resulted in, or that can reasonably be expected to result in, undue risk to the common defense and security. In addition, this category includes performance failures that result from a lack of contractor management and/or employee attention to the proper safeguarding of Restricted Data and other classified information. These performance failures may be indicators of future, more severe performance failures and/or conditions, and if identified and corrected early would prevent serious incidents. The following are examples of performance failures or performance failures of similar import that will be considered third degree:
 - (i) Negligent weapons or firearms-related incidents involving protective force operations/personnel (e.g., accidental weapons discharge, personal wounding).

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- (ii) Inventory differences of Category I/II/III SNM, or greater than 50g of Tritium, beyond alarm limits where there is no evidence that the difference is created by loss, theft, or diversion.